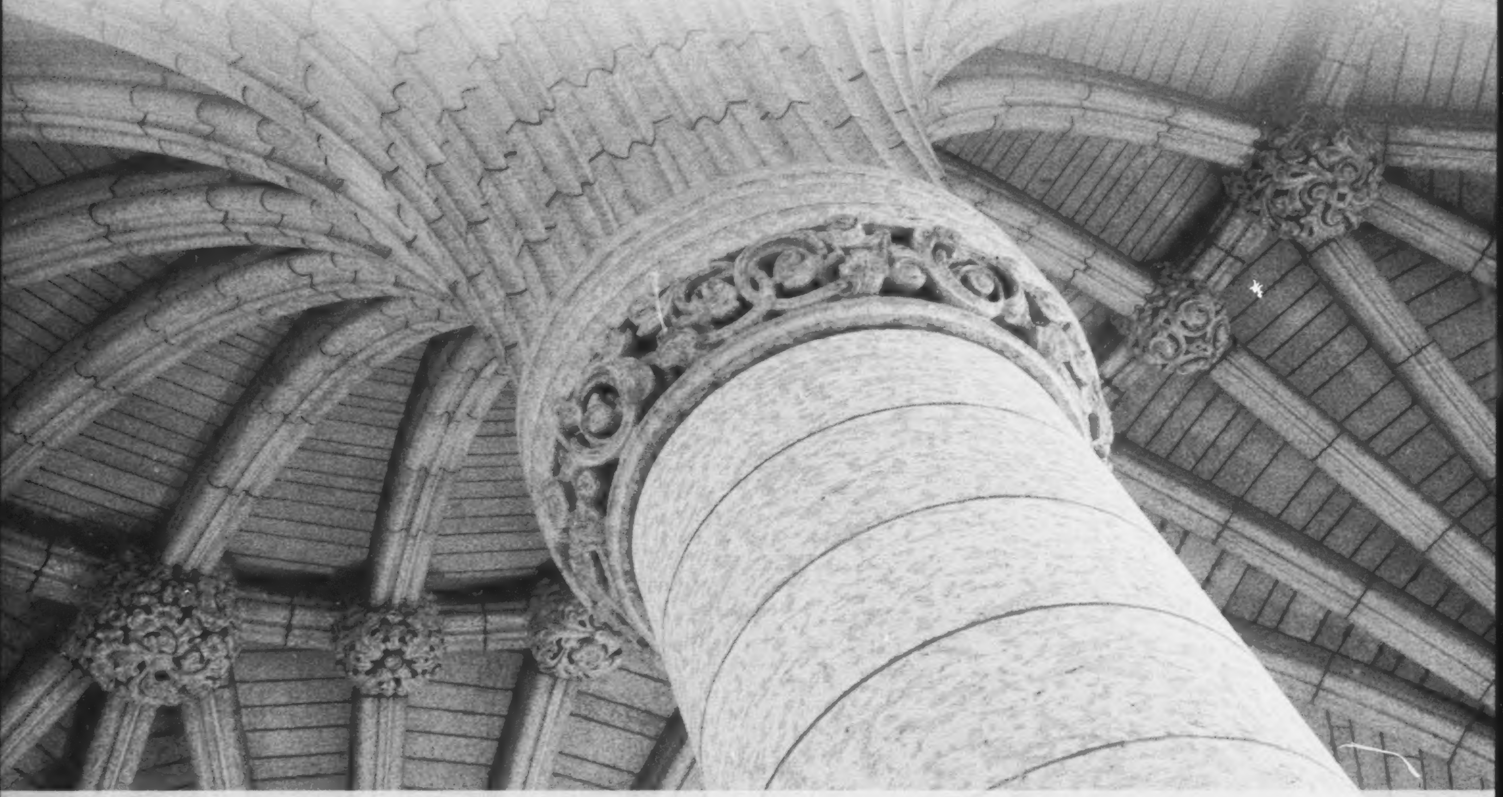
HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

A CALL TO ACTION: RECONCILIATION WITH INDIGENOUS WOMEN IN THE FEDERAL JUSTICE AND CORRECTIONAL SYSTEMS

Report of the Standing Committee on the Status of Women

Karen Vecchio, Chair



JUNE 2018
42nd PARLIAMENT, 1st SESSION

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Karen Vecchio
Chair

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NOTICE TO READER

Reports from committee presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

STANDING COMMITTEE ON THE STATUS OF WOMEN

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THE STANDING COMMITTEE ON THE STATUS OF WOMEN

has the honour to present its

THIRTEENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied Indigenous women in the federal justice and correctional systems and has agreed to report the following:

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SUMMARY

Despite a long history of marginalization within Canada, Indigenous women continue to be pillars of their communities, acting as leaders, decision makers, role models and mentors. Nevertheless, some Indigenous women's lives have been harmed by their experiences within the federal justice and correctional systems. Indigenous women are over-represented as offenders in the federal justice and correctional systems. Despite representing approximately 5% of Canada's total female population, Indigenous women make up 38% of the federally incarcerated female population in Canada; in Correctional Service Canada's Pacific and Prairie regions, Indigenous women make up more than 50% of the federally incarcerated female population.

Driven by this knowledge, the House of Commons Standing Committee on the Status of Women (the Committee) agreed on 20 June 2017 to conduct a study on Indigenous Women in the Federal Justice and Correctional Systems. The Committee received testimony from 36 witnesses – 13 of whom appeared as individuals, with the remainder representing 18 organizations. As well, the Committee was briefed by officials from 6 government departments and agencies, the Office of the Auditor General of Canada, and the Office of the Correctional Investigator of Canada. The testimony was received during nine meetings held from 28 November 2017 to 13 February 2018. As well, the Committee received 11 written briefs from organizations and individuals. In addition to the evidence gathered over the course of its study, the Committee also considered testimony from the House of Commons Standing Committee on Public Safety and National Security's study on Indigenous People in the Correctional System (fall 2017).

The House of Commons Standing Committee on the Status of Women's report provides:

- an overview of Indigenous women's experiences in the federal justice and correctional systems;
- suggestions of policy changes to prevent Indigenous women's interactions with the criminal justice system and incarceration;
- an examination of Indigenous women's access to and treatment in the federal justice system;
- an examination of Indigenous women in the federal correctional system; and

- 96 recommendations to the Government of Canada on how it can help improve Indigenous women's access to and treatment in the federal justice system as well as their treatment in the federal correctional system.

Factors contributing to Indigenous women's interactions with the criminal justice system are numerous and include intergenerational trauma; physical, psychological and sexual violence; substance abuse and mental health problems and illnesses; poverty; and disconnection from their own cultures and languages. Witnesses told the Committee that actions such as resolving the foster care crisis; the federal government collaborating with Indigenous communities; conducting community safety planning; implementing crime prevention strategies; and researching innovative approaches, such as social impact bonds, could help prevent Indigenous women's interactions with the criminal justice system and incarceration.

The Committee also heard that systemic problems in the federal justice system have a negative impact on Indigenous women's access to and treatment within that system. For instance, the Committee was informed that there is a longstanding distrust of many police forces across the country by Indigenous communities. As well, Indigenous women face various barriers in accessing the justice system, such as difficulties accessing legal aid and culturally appropriate services. Furthermore, the Committee heard that Indigenous women may not receive fair treatment during sentencing in the criminal justice system. Witnesses spoke of the lack of availability and the misuse of Gladue reports during sentencing, as well as the negative effects of minimum mandatory sentences on Indigenous women.

Finally, the report examines Indigenous women's experiences in the federal correctional system. The Committee heard that a number of measures would improve Indigenous women's treatment in this system, in particular measures regarding Correctional Service Canada's role; segregation and solitary confinement; access to programming, including culturally appropriate programming, training and education; health services, including mental health services; and parole, community reintegration and healing.

Both Committee members and witnesses acknowledged that the current situation with regards to Indigenous women in the federal justice and correctional systems is problematic and untenable. The Committee believes that the implementation of the 96 recommendations presented in this report by the Government of Canada will help to improve Indigenous women's access to and treatment in the federal justice system and their treatment in the correctional system.

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the Government of Canada collect disaggregated data on rates of incarceration and number of First Nations, Inuit and Métis female offenders in the federal prison population. 29

Recommendation 2

That the Government of Canada, in partnership with Indigenous peoples and communities, implement all calls to action of the Truth and Reconciliation Commission of Canada's final report.. 32

Recommendation 3

That the Government of Canada "develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization," as directed by call to action #39 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 32

Recommendation 4

That the Government of Canada immediately address the gaps in "delivery of government services on a day-to-day basis" for Indigenous women in the federal correctional system, and "identify ways to improve delivery that are holistic, community-based, and put the needs of the person first" as called for in the Minister of Indigenous Services' mandate letter. 32

Recommendation 5

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "commit to eliminating the over-representation of Aboriginal people [and youth] in custody" by 2025, "and to issue detailed annual reports that monitor and evaluate progress in doing so," as directed by calls to action #30 and #38 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 34

Recommendation 6

That the Government of Canada "[a]ddress the issue of disproportionate incarceration of [I]ndigenous … women, including by increasing the use of alternative measures for those who commit non-violent offences," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada. 35

Recommendation 7

That the Government of Canada make long-term operational funding for front-line community organizations, shelters and transition houses working to protect victims and survivors of violence and end violence against Indigenous women and girls eligible for federal support. 40

Recommendation 8

That the Government of Canada, in partnership with Indigenous peoples and communities, increase funding for culturally sensitive and appropriate mental health and addiction services for Indigenous people. 42

Recommendation 9

That the Government of Canada issue a call for proposals for programming designed to help with the reintegration of Indigenous female offenders living with mental health problems and illnesses upon release into their communities. 42

Recommendation 10

That the Government of Canada increase awareness among Indigenous women of federal government benefits available to them and increase the number of Indigenous female recipients of federal government benefits among those who would be eligible to claim these benefits, but are currently unable to do so because they do not have a Social Insurance Number or have not filed their taxes. 43

Recommendation 11

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, address the over-representation of Indigenous children in the child welfare system by investing in initiatives focused on keeping Indigenous children with their families. 47

Recommendation 12

That the Government of Canada encourage provinces and territories who deliver child welfare services to Indigenous families to re-evaluate the requirements for child and family services to remove Indigenous children from parents who have previously been incarcerated. 47

Recommendation 13

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "commit to reducing the number of Aboriginal children in care by: i. Monitoring and assessing neglect investigations. ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside. iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools. iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing. v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers," as directed by call to action #1 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 47

Recommendation 14

That the Government of Canada, in collaboration with provinces and territories, "prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions," as directed by call to action #2 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 47

Recommendation 15

That the Government of Canada fully implement Jordan's Principle to ensure equitable access for First Nations children to all federal government services, as directed by call to action #3 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 48

Recommendation 16

That the Government of Canada immediately "enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that: i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.; ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.; iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate," as directed by call to action #4 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 48

Recommendation 17

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "develop culturally appropriate parenting programs for Aboriginal families," as directed by call to action #5 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 48

Recommendation 18

That the Government of Canada address the housing crisis for Indigenous peoples by introducing legislation to realize the right to housing in Canada, in accordance with its international obligations, and by investing, immediately and on an ongoing basis, in affordable housing for Indigenous women and families. 51

Recommendation 19

That the Government of Canada examine the use of social impact bonds to determine whether they would reduce costs and increase outcomes for programs delivered within the federal justice system, with an emphasis on the delivery of mental health services and alternative programs such as healing lodges and community courts. 52

Recommendation 20

That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, develop and implement strategies to improve Indigenous people's trust in law enforcement agencies. 57

Recommendation 21

That the Government of Canada, in partnership with Indigenous peoples and communities and in collaboration with non-governmental organizations, require the Royal Canadian Mounted Police to provide its members and staff with culturally relevant training and education on how Indigenous history, Indigenous cultures, and colonization must be considered when interacting with Indigenous peoples, as well as training and education on how to use a trauma-informed approach when interacting with Indigenous women. 57

Recommendation 22

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms," as directed by call to action #40 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 57

Recommendation 23

That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, ensure that Indigenous women, including incarcerated Indigenous women and Indigenous women who are victims of crimes, have improved access to legal assistance, including improved access to civil legal aid, by earmarking funds for this aid in the Canada Social Transfer, as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth period reports of Canada. **58**

Recommendation 24

That the Government of Canada, in collaboration with provinces and territories and with particular attention to Indigenous women, "[r]eview criteria applied in income tests for eligibility to ensure access to civil legal aid, especially in the area of family law, for all women without sufficient means," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada. **59**

Recommendation 25

That the Government of Canada, in collaboration with provinces and territories, "recruit and train more [I]ndigenous women to provide legal aid to women from their communities, including in domestic violence cases and on property rights, and to review its legal aid scheme to ensure that [I]ndigenous women who are victims of domestic violence have effective access to justice," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada. **59**

Recommendation 26

That the Government of Canada increase funding for culturally appropriate federal justice programs and services for Indigenous women, with the goal of increasing Indigenous women's access to justice, and ensure that these programs and services are tailored to their needs, including to the specific needs of Inuit and Métis women. **61**

Recommendation 27

That the Government of Canada, in collaboration with Indigenous peoples and communities, provide increased support to community organizations that offer justice-related services to Indigenous women who are victims of crimes. 61

Recommendation 28

That the Government of Canada, in collaboration with the "Federation of Law Societies of Canada, ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations," including "requiring skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism," as directed by call to action #27 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 62

Recommendation 29

That the Government of Canada, in collaboration with provinces and territories, "call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal – Crown relations," including "requiring skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism," as directed by call to action #28 of the 2015 Report of the Truth and Reconciliation Commission of Canada.. 62

Recommendation 30

That the Government of Canada encourage the Canadian Judicial Council to establish seminars and other education material for the continuing education of judges, including in respect of matters related to history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, treaties and Aboriginal rights, Indigenous law, and Aboriginal – Crown relations, as well as skills-based training in intercultural competency, conflict resolution, human rights, antiracism, sexual assault law and social context that has been developed in consultation with sexual assault survivors, as well as with groups and organizations that support them and that the training be broadly available to the judiciary, crown prosecutors, police forces and lawyers... 63

Recommendation 31

That the Government of Canada immediately table legislation to "amend the *Criminal Code* to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences," as directed by call to action #32 of the 2015 Report of the Truth and Reconciliation Commission of Canada and in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada. 66

Recommendation 32

That the Government of Canada remove the requirement to automatically incarcerate an Indigenous female offender in a maximum security facility for the first two years of a murder sentence. 67

Recommendation 33

That the Government of Canada ensure that Gladue reports are not misused against an Indigenous female offender during classification, incarceration and/or parole hearings, and that personnel at Correctional Service Canada and at the Parole Board of Canada receive training on the purpose of Gladue reports. 70

Recommendation 34

That the Government of Canada support Gladue principles, enforce culturally appropriate and sensitive Gladue reporting, and ensure that timely Gladue reporting is made accessible to Indigenous women, through a federally guided regional needs assessment. 70

Recommendation 35

That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, develop and implement a strategy to improve the use of high-quality Gladue reports in the justice system. 70

Recommendation 36

That the Government of Canada encourage provinces and territories to work in partnership with Indigenous peoples and communities to coordinate efforts to implement gender-responsive Gladue reporting. 70

Recommendation 37

That the Government of Canada provide additional resources to train and support Gladue writers in all provinces and territories, and to address the skills and personnel deficit that has resulted in the misrepresentation, inadequate representation, and unjust sentencing of Indigenous female offenders.................... 71

Recommendation 38

That the Government of Canada, in collaboration with provinces and territories, negotiate a cost-sharing agreement to fund the writing of Gladue reports and the training of new Gladue writers... 71

Recommendation 39

That the Government of Canada implement and further invest in community-based rehabilitation and restorative justice methods for Indigenous female offenders rather than incarceration for low and medium security Indigenous female offenders. 74

Recommendation 40

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, immediately and on an ongoing basis "provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending," as directed by call to action #31 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 74

Recommendation 41

That the Government of Canada, in partnership with Indigenous peoples and communities, establish community courts in Indigenous communities for non-violent offences.. 75

Recommendation 42

That the Government of Canada, in collaboration with provinces and territories, “commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012,” as directed by call to action #42 of the 2015 Report of the Truth and Reconciliation Commission of Canada, and adopt without delay Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.............................. 75

Recommendation 43

That the Government of Canada immediately appoint a deputy commissioner for Indigenous offenders, and consider the future appointment of a deputy commissioner with specific responsibility for the oversight of Indigenous women in federal correctional institutions. 79

Recommendation 44

That the Government of Canada classify, in its initial assessment and whenever possible, Indigenous female offenders at a medium security level or lower in order to provide them with appropriate treatment and rehabilitation services, and ensure, in cases where a maximum security is needed, that Indigenous female offenders have access to culturally appropriate services. 88

Recommendation 45

That the Government of Canada review and update Correctional Service Canada’s assessment qualifiers for assigning incarceration security classification levels to Indigenous female offenders, including, but not limited to, conducting a gender-based analysis plus on their security levels classification tool; and request that the Correctional Investigator of Canada conduct an evaluation of the new classification tool after its implementation. 89

Recommendation 46

That the Government of Canada, in partnership with Indigenous peoples and communities, "[r]edesign its classification system for women in the federal prison system to ensure their access to work and community [programs] as well as to [A]boriginal healing lodges," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada. 89

Recommendation 47

That the Government of Canada end the practice of solitary confinement and segregation in its many forms, including, but not limited to, administrative segregation, health-related segregation, and punitive segregation in federal correctional institutions for women. 93

Recommendation 48

That the Government of Canada immediately "[a]bolish the practice of solitary confinement, and effectively limit the use of administrative or disciplinary segregation as a measure of last resort for as short a time as possible and avoid such measure for women with serious mental illness," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women and the Correctional Investigator of Canada in its Concluding observations on the combined eighth and ninth periodic reports of Canada. 93

Recommendation 49

That the Government of Canada immediately implement legislation requiring judicial oversight regarding the use of administrative segregation until the practice of solitary confinement and segregation in its many forms, including, but not limited to, administrative segregation, health-related segregation, and punitive segregation in federally administered women's correctional facilities, is abolished. 93

Recommendation 50

That the Government of Canada limit the use of secure units in federal correctional institutions for women. 93

Recommendation 51

That the Government of Canada review conditions whereby Indigenous female offenders are unable to attend their parole hearings because access to programming in the correctional facility was not made available to them, and ensure that all options are outlined for Indigenous female offenders in the event programming is not able to be completed through no fault of the their own. 95

Recommendation 52

That the Government of Canada, immediately "ensure that Indigenous offenders have timely access to correctional programs – including culturally specific programs – according to their needs and preferences, to support their successful reintegration," as called for in the 2016 Fall Reports of the Office of the Auditor General entitled *Report 3 – Preparing Indigenous Offenders for Release—Correctional Service Canada*. 96

Recommendation 53

That the Government of Canada partner with Indigenous peoples and organizations to offer programs and services for Indigenous female inmates that are culturally relevant, culture specific and administered within Correctional Service Canada institutions. 104

Recommendation 54

That the Government of Canada provide resources to inform Indigenous female offenders on all support mechanisms and tools available to them, such as Gladue writers and sections 29, 81, and 84 of the *Corrections and Conditional Release Act*. 104

Recommendation 55

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused," as directed by call to action #36 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 104

Recommendation 56

That the Government of Canada ensure that federally incarcerated Indigenous women who wish to participate in the Pathways Initiative have timely access to the Initiative and that the Initiative's programming is culturally appropriate for incarcerated First Nations, Inuit and Métis women; and develop, in partnership with Indigenous peoples and communities, tools to assess how the Pathways Initiative contributes to the reintegration of Indigenous women in their communities. 104

Recommendation 57

That the Government of Canada ensure access to and support from Indigenous Elders is available for all Indigenous female offenders in the federal justice and correctional systems including after conditional release, and that Elders be given an enhanced role and/or participation surrounding parole hearings. 107

Recommendation 58

That the Government of Canada, in partnership with Indigenous peoples and communities, evaluate and implement changes with the goal of improving the meaningful participation of Elders in programming for Indigenous female inmates. 107

Recommendation 59 ....

That the Government of Canada ensure Elders employed by Correctional Service Canada are recognized as such by Indigenous communities. 107

Recommendation 60

That the Government of Canada provide employment programs to more Indigenous female offenders by creating partnerships with community organizations that provide employment services to Indigenous female offenders and by establishing employment centres in all healing lodges. 112

Recommendation 61

That the Government of Canada ensure access to healing lodges for Indigenous female offenders with a medium security classification. 112

Recommendation 62

That the Government of Canada, in recognition of the fact that healing lodges operated by Indigenous communities do not receive as much support as healing lodges operated by Correctional Service Canada, ensure that equal funding be provided to community-operated healing lodges. 112

Recommendation 63

That the Government of Canada immediately "eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system," as directed by call to action #35 of the 2015 Report of the Truth and Reconciliation Commission of Canada, and address the lack of community-operated healing lodges under section 81 of the *Corrections and Conditional Release Act*. 112

Recommendation 64

That the Government of Canada, in consultation with Indigenous peoples and communities, create and provide adequate funding for healing lodges operated by Correctional Service Canada and communities and to other culturally appropriate programming for Indigenous female offenders in urban communities. 112

Recommendation 65

That the Government of Canada, in consultation with Indigenous peoples and communities, increase the number of and provide adequate resources for agreements concluded with Indigenous communities under section 84 of the *Corrections and Conditional Release Act*. 120

Recommendation 66

That the Government of Canada, in consultation with Indigenous peoples and communities, provide additional resources to Correctional Service Canada and Indigenous communities to increase the use of sections 29, 81 and 84 of the *Corrections and Conditional Release Act*. 120

Recommendation 67

That the Government of Canada provide the same level of access to employment skills training and educational opportunities for all incarcerated Indigenous women as other inmates. 120

Recommendation 68

That the Government of Canada explore options to provide and enhance employment skills training and educational opportunities for all classifications of incarcerated Indigenous women, including in maximum- and medium-security facilities. 121

Recommendation 69

That the Government of Canada conduct an analysis of the employment skills training provided to incarcerated Indigenous women to ensure the opportunities provide, to the best extent possible, marketable labour skills and experience. 123

Recommendation 70

That the Government of Canada immediately review employment skills training in women's correctional facilities to more accurately reflect market conditions and opportunities for well-paying employment upon release, which may include a gender-based analysis plus on their CORCAN job training programming. 124

Recommendation 71

That the Government of Canada streamline the work release process in order to make it easier and timely for employers to hire Indigenous female offenders who qualify for the work release process. 125

Recommendation 72

That the Government of Canada provide funding for a study to examine adverse childhood experiences and past-trauma among incarcerated Indigenous people in Canada, including a gender-based analysis. 128

Recommendation 73

That the Government of Canada provide additional resources to properly evaluate all Indigenous female offenders upon entry to a federal correctional facility for mental illness, trauma, and disabilities, to assign the appropriate care for treatment and rehabilitation. 130

Recommendation 74

That the Government of Canada examine its existing health data collection system for incarcerated Indigenous women in federal correctional institutions, and address any shortcomings in data collection, particularly for mental health problems and illnesses, fetal alcohol spectrum disorder, and cognitive impairments.......... 130

Recommendation 75

That the Government of Canada increase access to healthcare for incarcerated Indigenous women so that healthcare be accessible 24 hours a day, 7 days a week, in federal correctional institutions, with specific consideration given to increasing mental health supports, including a greater number of mental health beds, and access to psychiatrists. 131

Recommendation 76

That the Government of Canada develop and implement culturally appropriate and gender-specific substance abuse programs, as well as harm reduction services for Indigenous female inmates who are drug users, in federal correctional facilities. 133

Recommendation 77

That the Government of Canada "[e]xpand care, treatment and support services to women in detention living with or vulnerable to HIV/AIDS, including by implementing prison-based needle and syringe programmes, opioid substitution therapy, condoms and other safer sex supplies," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada. 133

Recommendation 78

That the Government of Canada enter, as soon as possible, into Memorandums of Understanding with provincial and territorial mental health facilities to ensure that if Indigenous female offenders need mental health care they can access that care in their province or territory of incarceration.......... 134

Recommendation 79

That the Government of Canada immediately prohibit the transfer of federally incarcerated women in need of mental health care to all-male treatment centres, and ensure that federally incarcerated women are transferred to treatment centres that serve women or, preferably, "to a local external community psychiatric hospital as required," as called for by the 2016-2017 Annual Report of the Office of the Correctional Investigator. 135

Recommendation 80

That the Government of Canada immediately provide funding for the diagnoses and treatment of fetal alcohol syndrome disorder upon arrival of Indigenous female offenders in federal correctional facilities and during their incarceration. 136

Recommendation 81

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, and increase funding for FASD preventive programs that can be delivered in a culturally appropriate manner," as directed by call to action #33 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 136

Recommendation 82

That the Government of Canada, in partnership with Indigenous peoples and communities, "undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including: i. providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD; ii. enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD; iii. providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community; iv. adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety," as directed by call to action #34 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 136

Recommendation 83

That the Government of Canada increase funding to Correctional Service Canada to ensure effective program delivery as well as ensure that Correctional Service Canada staff have the time required to work with offenders to ensure their successful reintegration upon release. 138

Recommendation 84

That the Government of Canada, in consultation with relevant unions and employees, develop and implement a strategy to improve the working conditions and the mental health of Correctional Service Canada employees. 138

Recommendation 85

That the Government of Canada require Correctional Service Canada to provide its staff with enhanced guidance and training on how the colonial impact on Indigenous history and culture should be considered in case management decisions and that this training be created in partnership with Indigenous peoples and organizations. 140

Recommendation 86

That the Government of Canada, in order to increase the number of Indigenous staff that work as Royal Canadian Mounted Police officers, correctional officers, and parole officers, visit Indigenous communities. 142

Recommendation 87

That the Government of Canada allocate grants for new Indigenous correctional officers to cover the potential loss of income associated with Correctional Service Canada's lengthy training process. 142

Recommendation 88

That the Government of Canada improve the Mother-Child Program operated by Correctional Service Canada to increase Indigenous women's access to their children while incarcerated, including allowing Indigenous children to remain with their mothers where feasible. 146

Recommendation 89

That the Government of Canada provide professional and community-based training to parole officers, and simplify the hiring process for parole officers to increase the number of Indigenous staff. 151

Recommendation 90

That the Government of Canada enact legislation reinstating the accelerated parole review process under the *Corrections and Conditional Release Act*.............. 151

Recommendation 91

That the Government of Canada fill, as soon as possible, all vacancies on the Parole Board of Canada. 151

Recommendation 92

That the Government of Canada provide increased funding for community-based residential facilities operated by Correctional Service Canada or owned by non-governmental agencies who signed contracts with Correctional Service Canada, in particular for private home placements, which provide offenders with services and supports in a home environment. 151

Recommendation 93

That the Government of Canada make legislative changes to the *Corrections and Conditional Release Act* to limit the use of videoconferences, unless absolutely necessary, for Parole Board of Canada hearings, while continuing to allow victims of crime to appear by videoconference. 151

Recommendation 94

That the Government of Canada provide, immediately and on an ongoing basis, funding for the development and implementation of culturally appropriate parole programs and services for Indigenous female offenders, including culturally appropriate programs and services in halfway houses, as directed by call to action #37 of the 2015 Report of the Truth and Reconciliation Commission of Canada. 151

Recommendation 95

That the Government of Canada provide additional resources for community organizations that provide culturally appropriate support services and assist Indigenous peoples reintegration and healing. 155

Recommendation 96

That the Government of Canada work with its provincial and territorial counterparts to ensure that Indigenous female offenders receive provincial identification (e.g., health cards, photo ID, driver's licence) immediately upon release. 156

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

A CALL TO ACTION: RECONCILIATION WITH INDIGENOUS WOMEN IN THE FEDERAL JUSTICE AND CORRECTIONAL SYSTEMS

Introduction

Despite a long history of marginalization within Canada, many Indigenous women[1] continue to be pillars of their communities, acting as leaders, decision makers, role models and mentors for their people. Indeed, Teresa Edwards, Member of the Board of Directors of the Indigenous Bar Association in Canada, told the Committee that Indigenous women have been leaders in their communities for a long time:

> What I teach the women I work with and mentor is that on a scale of 15,000 years, for 14,850 years [I]ndigenous women were strong. We had thriving communities, very strong socio-economic trade and justice systems, and functioning people. It's only been in the last 150 years that we've known these issues, largely tied to residential schools. It's not in our DNA to be on welfare, addicted, or in prison, so we can change this.[2]

Nevertheless, some Indigenous women's lives have been, and continue to be, strongly affected by their harmful experiences within the federal justice and correctional systems. Driven by this knowledge, the House of Commons Standing Committee on the Status of Women ("the Committee") agreed on 20 June 2017 to conduct a study on Indigenous Women in the Federal Justice and Correctional Systems. The Committee adopted the following motion:

> That the Committee study Indigenous women's access to and treatment in the Justice system; that the study include consideration of Indigenous women's access to appropriate legal services; that the study include an examination of incarceration rates and penalties imposed on Indigenous women; that the study consider the treatment of Indigenous women within the Corrections system; that the Committee report its findings to the House; and that the Committee request a government response to its report.[3]

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[1] In this report, the term "Indigenous women" refers to self-identified First Nations, Inuit and Métis women, unless noted otherwise. Some witnesses used the term "Aboriginal peoples," which generally refers to First Nations (Indians), Inuit and Métis individuals.

[2] House of Commons, Standing Committee on the Status of Women (FEWO), Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1725 (Teresa Edwards, Member of the Board of Directors, Indigenous Bar Association in Canada).

[3] FEWO, Minutes of Proceedings – 20 June 2017.

The Committee received testimony from 36 witnesses – 13 of whom appeared as individuals, with the remainder representing 18 organizations. As well, the Committee was briefed by officials from, the Office of the Auditor General of Canada, the Office of the Correctional Investigator of Canada, and 6 federal departments and agencies.[4] The testimony was received during nine meetings held from 28 November 2017 to 13 February 2018. In addition, the Committee received 11 written briefs from organizations and individuals. Appendix A of this report includes a list of all witnesses and Appendix B includes a list of all submitted briefs.

In addition to the evidence gathered over the course of its study, the Committee also incorporated testimony from the House of Commons Standing Committee on Public Safety and National Security's study on Indigenous People in the Correctional System (fall 2017).[5] The Standing Committee on the Status of Women's report provides:

1) an overview of Indigenous women's experiences in the federal justice and correctional systems.

2) suggestions on how to prevent Indigenous women's interactions with the criminal justice system and incarceration, which includes five key themes:

   a) addressing the contributing factors to criminalization; b) resolving the foster care crisis for Indigenous children; c) collaborating with Indigenous communities and using community safety planning; d) implementing crime prevention strategies; and e) researching innovative approaches, including social impact bonds.

3) an examination of Indigenous women's access to and treatment in the federal justice system, which includes a summary of the Department of Justice's role, as well as four key themes:

   a) Indigenous women and police forces; b) Indigenous women's access to the justice system; c) judges and sentencing; and, d) alternative or restorative justice options.

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[4] The 6 departments and agencies were: Correctional Service of Canada, the Parole Board of Canada, the Department of Public Safety and Emergency Preparedness, the Department of Indian Affairs and Northern Development, the Department of Justice, and the Royal Canadian Mounted Police.

[5] House of Commons Standing Committee on Public Safety and National Security (SECU), *Indigenous People in the Correctional System*, 42nd Parliament, 1st Session.

4) an examination of Indigenous women in the federal correctional system, which includes a summary of the role of Correctional Service Canada (CSC), as well as ten key themes:

   a) CSC's security level classification of Indigenous women;
   b) segregation and solitary confinement; c) access to programming, including culturally appropriate programming; d) Sections 81 and 84 of the *Corrections and Conditional Release Act*; e) access to training and education for inmates; f) mental health and other health services; g) the effect of CSC's employees and the workplace on Indigenous women's well-being; h) the importance of relationships with family for Indigenous female offenders; i) parole, reintegration and healing; and, j) "decarceration" strategies.

Both Committee members and witnesses acknowledged that Indigenous women's experience in the federal justice and correctional systems is seriously problematic and untenable. The relationship between Indigenous women and the federal justice and correctional systems is influenced and upheld by complex and interrelated factors, such as colonization, systemic racism, violence, poverty, lack of adequate housing, poor living conditions, and intergenerational trauma.

Committee members greatly appreciate the contributions of witnesses who offered their knowledge, ideas and insights on the important subject of Indigenous women's experiences in the federal justice and correctional systems. In particular, Committee members want to thank those witnesses who shared powerful personal stories of their experiences within the justice and/or correctional systems. While this report focuses on Indigenous women's interactions with the criminal justice system and incarceration, the Committee recognizes the importance for victims and survivors to receive justice, to have their stories heard, to heal and to reclaim their lives.

This report and its recommendations draw attention to the serious and damaging consequences of Indigenous women's experience in the federal justice and correctional systems. In particular, it is critical that Indigenous women's needs with regards to their reintegration in their communities be met by these systems. A successful reintegration benefits not just Indigenous women themselves, but their families, their friends and their communities.

Overview of Indigenous Women in the Federal Justice and Correctional Systems

Indigenous people are a young and fast-growing population in Canada. According to Statistics Canada, there were 1,673,785 Indigenous individuals (First Nations, Métis and Inuit) living in Canada in 2016.[6] The Committee was told that Indigenous women are over-represented as offenders in the federal justice and correctional systems. Despite representing approximately 5% of Canada's total female population,[7] Indigenous women make up 38% of the federally incarcerated female population in Canada;[8] Indigenous women make up more than 50% of the federally incarcerated female population in Correctional Service Canada's Pacific and Prairie regions.[9] The following section provides a statistical overview of Indigenous women as offenders in the federal justice and correctional systems.

The federal justice and correctional systems consist of a number of departments and agencies which all have a specific mandate and work independently. Firstly, the Department of Justice oversees the administration of justice within the federal domain, with the goal of ensuring a "fair, relevant and accessible justice system for all Canadians."[10] The Department of Justice also funds various initiatives with regards to Indigenous people in the justice system. The role and initiatives of the Department of Justice are discussed in greater detail in following sections of this report. Secondly, Public Safety Canada "ensure[s] coordination across all federal departments and agencies responsible for national security and the safety of Canadians."[11] Public Safety Canada's portfolio includes, in particular, the Royal Canadian Mounted Police, Correctional Service Canada and the Parole Board of Canada. All three organizations are discussed in greater detail in following sections of this report. Finally, Indigenous Services Canada "works collaboratively with partners to improve access to high quality services for First Nations, Inuit and Métis."[12] Services may include health, education, and housing services, as well as other social programs.

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[6] Statistics Canada, "Aboriginal peoples in Canada: Key results from the 2016 Census," *The Daily*, 25 October 2017.

[7] Statistics Canada, "Census Profile, 2016 Census," *Aboriginal peoples*.

[8] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

[9] Ibid.

[10] Department of Justice, *About Us*.

[11] Public Safety Canada, *About Public Safety Canada*.

[12] Government of Canada, *Indigenous Services Canada*.

The Committee heard that Indigenous women are often caught in a cycle of injustice. Lowell Carroll, Manager of Calgary, Red Deer and Siksika Legal Services Centre, Legal Aid Alberta, explained that:

> You have a population that suffers from poverty, domestic violence, mental health issues, and displacement, and because of these issues we end up seeing these people in the justice system. [Indigenous women] become incarcerated, they are placed in segregation, they aren't treated for their brain injuries or mental health issues, their families become separated, and they get pushed further into poverty and isolation. To put it bluntly, there is no healing, and there is no focus on prevention that I can see.[13]

While Indigenous women are victimized at a disproportionately high rate,[14] they are also over-represented in the federal correctional system when compared to their proportion of the Canadian population. Between 2007 and 2016, the federal inmate population grew by less than 5%, while the Indigenous inmate population increased by 39%. Since 2007–2008, the number of women in federal custody increased by 30% whereas the number of Indigenous women increased by 60%.[15] Ivan Zinger, Correctional Investigator of Canada, told the Committee that "any net growth in the federal inmate population since 2012 is almost exclusively attributed to new or returning admissions of [I]ndigenous offenders."[16]

According to the Office of the Correctional Investigator of Canada, as of November 2017, there were:

- 265 federally incarcerated Indigenous women (38% of all incarcerated women) in Canada; and
- 185 Indigenous women supervised at the federal level in the community (27% of all women supervised in the community) in Canada.[17]

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[13] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1610 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[14] Jillian Boyce, "Victimization of Aboriginal people in Canada, 2014," *Juristat*, Statistics Canada, 28 June 2016.

[15] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2016–2017*, 2017, pp. 48 and 59.

[16] House of Commons, Standing Committee on Public Safety and National Security (SECU), *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0850 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[17] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

As of November 2017, in CSC's Pacific Region, Indigenous women represented 50% of all women in federal correctional institutions, and in the Prairies Region, Indigenous women represented 65% of all women in federal correctional institutions.[18]

The Committee heard that there is a shortage of comprehensive data on Indigenous women's experiences in the federal justice and correctional systems. Melanie Omeniho, President of Women of the Métis Nation, told the Committee that there are no statistics or research with regards to Métis women in the federal correctional system.[19] As well, in a written brief, Pauktuutit Inuit Women of Canada stated that there is a need for research with regards to Inuit women and their experiences in the federal correctional system.[20]

The Office of the Correctional Investigator of Canada noted that there are some important differences in the characteristics of federally sentenced Indigenous women compared to non-Indigenous women. Indigenous women in the federal correctional system:[21]

- are on average younger than non-Indigenous women (34 years compared to 38 years);
- are more likely to be serving time for an offence listed in Schedule 1 of the *Criminal Records Act* (violent crimes and other sexual offences) than non-Indigenous women (58% compared to 32%);
- are more likely than non-Indigenous women to be gang affiliated (10% compared to 1%);
- have lower educational attainments than non-Indigenous women when admitted;
- are over-represented in incidents of self-injury and use of force in federal correctional facilities, in segregation, and in maximum security; and
- have "high rates of involvement in prostitution at an early age."

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[18] Ibid.

[19] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1245 (Melanie Omeniho, President, Women of the Métis Nation).

[20] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[21] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

The Committee heard that the average cost of maintaining a woman in the federal correctional system is between $190,000 (according to the Office of the Auditor General of Canada) and $220,000 (according to Correctional Service Canada).[22]

Recommendation 1

That the Government of Canada collect disaggregated data on rates of incarceration and number of First Nations, Inuit and Métis female offenders in the federal prison population.

National and International Commitments to Indigenous Peoples

A number of witnesses spoke of the importance of respecting national and international commitments in support of the rights of Indigenous peoples, in particular Indigenous women.

Some witnesses referenced the 2015 report of the Truth and Reconciliation Commission of Canada (TRC),[23] and said they were in support of the TRC's calls to action with regards to the justice and correctional systems,[24] for instance:

- call to action 27, which called on the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, and call to action 28, which calls upon law schools in Canada to require all law students to take a course in Indigenous people and the law;[25]

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[22] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1545 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[23] Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future*, 2015.

[24] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0920 (Dale LeClair, Chief of Staff, Métis National Council); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0930 (Hon. Kim Pate, Senator); FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1240 (Shirley Cuillierrier, Assistant Commissioner, Senior Advisor on Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women and Girls, Royal Canadian Mounted Police); Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018; Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[25] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native

- call to action 30, which called upon the federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Indigenous people in custody over the next decade;[26]
- call to action 32, which called upon the federal government to amend the *Criminal Code* so as not to force judges to impose mandatory minimum sentences;[27] and
- calls to action 30 to 42, which addressed a range of justice-related issues, including eliminating the over-representation of Indigenous peoples in the justice system and undertaking reforms to the criminal justice system to better address the needs of offenders with fetal alcohol spectrum disorder.[28]

In September 2016, the Government of Canada launched the National Inquiry into Missing and Murdered Indigenous Women and Girls. Four independent Commissioners have the mandate to "look into and report on the systemic causes of all forms of violence against Indigenous women and girls, including sexual violence" and to "examine the underlying social, economic, cultural, institutional, and historical causes that contribute to the ongoing violence and particular vulnerabilities of Indigenous women and girls in Canada."[29] The National Inquiry gathers evidence through community, institutional and expert hearings; research, collaboration with Elders and Knowledge Keepers; and forensic analysis of police records.[30] In 2017, the National inquiry published an interim report, entitled *Our Women and Girls are Sacred*, in which it issued ten recommendations on a variety of topics.[31] As of May 10 2018, the National Inquiry is ongoing.

Women Inc. (ONW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[26] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0925 (Hon. Kim Pate, Senator).

[27] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[28] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0900 (Terry Teegee, Regional Chief, Assembly of First Nations).

[29] National Inquiry into Missing and Murdered Indigenous Women and Girls, *The Mandate of the National Inquiry*.

[30] Ibid.

[31] National Inquiry into Missing and Murdered Indigenous Women and Girls, *Our Women and Girls are Sacred*, Interim Report, 2017.

At the international level, Canada committed to a number of treaties and agreements reinforcing women's rights and Indigenous peoples' rights.

In 1979, the *Convention on the Elimination of All Forms of Discrimination against Women* called on all state parties to end discrimination against women;[32] Canada ratified the Convention in 1981.[33] As part of the monitoring and implementation process, the Committee on the Elimination of Discrimination against Women (CEDAW) receives state party reports and publishes regular reviews of state parties' progress. Some witnesses indicated that in previous reports, CEDAW had expressed concern about discrimination against and incarceration of Indigenous women in Canada.[34] In a written brief to the Committee, the Canadian Aboriginal AIDS Network and partner organizations stated their support for CEDAW's 2016 recommendation that Canada repeal mandatory minimum sentences for minor, non-violent drug-related offences, particularly because they state that incarceration is used unjustly against drug-addicted women.[35]

A number of witnesses also spoke in support of the rights outlined in the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007.[36] The Government of Canada announced its full support, without qualification, for the Declaration in May 2016.[37] As of 8 May 2018, Bill C-262: the United Nations Declaration on the Rights of Indigenous Peoples Act, is at second reading in the House of Commons; its goal is to "ensure that the laws of Canada are in harmony" with the declaration.[38]

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[32] UN Women, *Convention on the Elimination of All Forms of Discrimination against Women*.

[33] United Nations Treaty Collection, *Convention on the Elimination of All Forms of Discrimination against Women*.

[34] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018; United Nations, Committee on the Elimination of Discrimination against Women, Concluding observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CA/CO/8-9, 25 November 2016.

[35] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018.

[36] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1105 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0855 (Terry Teegee, Regional Chief, Assembly of First Nations).

[37] Indigenous and Northern Affairs Canada, *United Nations Declaration on the Rights of Indigenous Peoples*.

[38] Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples, 1st Session, 42nd Parliament.

In December 2015, the United Nations General Assembly adopted without a vote the revised United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Mandela Rules,[39] that "stress the overriding principle that all prisoners shall be treated with respect due to their inherent dignity and value as human beings."[40] The Mandela Rules include, for instance, "prisoners' right to access health care equivalent to that available in the community."[41]

Recommendation 2

That the Government of Canada, in partnership with Indigenous peoples and communities, implement all calls to action of the Truth and Reconciliation Commission of Canada's final report.

Recommendation 3

That the Government of Canada "develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization," as directed by call to action #39 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 4

That the Government of Canada immediately address the gaps in "delivery of government services on a day-to-day basis" for Indigenous women in the federal correctional system, and "identify ways to improve delivery that are holistic, community-based, and put the needs of the person first" as called for in the Minister of Indigenous Services' mandate letter.

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[39] United Nations Office on Drug and Crime, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*; United Nations, "General Assembly Adopts 64 Third Committee Texts Covering Issues Including Migrants, Children's Rights, Human Rights Defenders," *News release*, 17 December 2015.

[40] United Nations Office on Drugs and Crime, "'Mandela Rules' passed, standards on the treatment of prisoners enhanced for the 21st century," *News release*, 22 May 2015.

[41] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

Preventing Indigenous Women's Criminalization and Incarceration

The Committee was told that it is crucial to focus on prevention measures in order to prevent Indigenous women's interactions with the criminal justice system in Canada. Donald Meikle, Executive Director at the Saskatoon Downtown Youth Centre Inc., shared a story that emphasized the importance of focusing on contributing factors to criminality:

> It often reminds me of the story of the two people pulling dead bodies from a river. They stood strong, pulling bodies day after day, until an [E]lder happened to walk by and asked them what they were doing. They explained what they were doing and how hard they were working. The [E]lder looked at them and asked, "Has anyone gone upstream to find out why all these bodies are coming down in the first place?" When we're looking at [I]ndigenous women issues, we still continually look downstream.[42]

Some witnesses spoke of the need to implement a varied range of prevention measures to address the root causes of incarceration.[43] In particular, some witnesses spoke of the need to address contributing factors to criminalization; the need to resolve the foster care crisis for Indigenous children; the importance of collaborating with Indigenous communities, particularly on community safety plans; the need for crime prevention strategies; and, the possibility of using innovative approaches, including the possible use of social impact bonds, as crime prevention strategies. These subjects are analysed in detail in the following sections.

Many witnesses said that improving the socio-economic conditions of Indigenous women would reduce their rates of criminalization and incarceration. Indigenous Services Canada is the federal government's department generally responsible to fund programs and initiatives that aim to improve the socio-economic conditions of Indigenous peoples, particularly for First Nations people living on-reserve.[44] Teresa Edwards told the Committee that "eighty per cent of [I]ndigenous women are single mothers, so you can have all the programs you want, but if you don't have child care, they can't make it there because they're taking care of their children."[45]

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[42] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1630 (Donald Meikle, Executive Director, Saskatoon Downtown Youth Centre Inc.).

[43] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0930 (Hon. Kim Pate, Senator); Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[44] Indigenous and Northern Affairs Canada, *About Indigenous and Northern Affairs Canada*.

[45] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

A. Addressing the Contributing Factors to Criminalization

Many factors contribute to Indigenous women's interactions with the criminal justice system, including intergenerational trauma; physical, psychological and sexual violence; mental health problems and illnesses; poverty; displacement;[46] and, lack of awareness or understanding of Indigenous cultures and traditions.[47] The Committee heard that these contributing factors can be different for First Nations, Métis and Inuit, as well as for urban populations and First Nations individuals living on-reserve. In a written brief, Pauktuutit Inuit Women of Canada, stated that, for Inuit women:

> These circumstances are compounded by many factors, including a lasting colonial legacy representing the steady erosion of Inuit legal order through the imposition of a foreign vision of justice and the process of achieving it, language barriers, high turnover and 'burn-out' among police officers and criminal justice workers, lack of community infrastructure and extensive social service gaps.[48]

Claire Carefoot, Director of the Corrections Program at Buffalo Sage Wellness House, Native Counselling Services of Alberta, told the Committee that communities need culturally appropriate programs and services to address these contributing factors.[49]

Recommendation 5

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "commit to eliminating the over-representation of Aboriginal people [and youth] in custody" by 2025, "and to issue detailed annual reports that monitor and evaluate progress in doing so," as directed by calls to action #30 and #38 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

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[46] Ibid., 1610 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[47] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0845 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[48] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[49] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0955 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

Recommendation 6

That the Government of Canada "[a]ddress the issue of disproportionate incarceration of [I]ndigenous ... women, including by increasing the use of alternative measures for those who commit non-violent offences," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

1. Intergenerational Trauma

The Committee was told that there is a strong link between the over-representation of Indigenous women in the federal justice and correctional systems and the trauma experienced by Indigenous people since colonization. Allen Benson, Chief Executive Officer of the Native Counselling Services of Alberta said:

> Indigenous criminal behaviour is connected to historic trauma and being victimized as children. It's the legacy of colonial law and policies, such as residential school systems, a legacy that has been passed intergenerationally in [I]ndigenous families and communities.[50]

This legacy has led to "an intergenerational cycle of custody and institutionalization."[51] Teresa Edwards, Member of the Board of Directors of the Indigenous Bar Association in Canada, stated:

> We've had human rights violations and continuous colonization of [I]ndigenous women, and their children have been affected the most by these violations. We've had dispossession of traditional lands, of traditional roles and responsibilities, of our participation in political and social decisions. All are contributing factors that harmed our families, cultures, traditions, and languages.[52]

A number of witnesses explained that the trauma experienced by Indigenous peoples, particularly from residential schools, is intergenerational and ongoing.[53] Survivors of residential schools suffered racism and physical and psychological abuse and were not given the opportunity to develop the skills needed to succeed as adults and parents.[54] Even if Indigenous women have not been to residential school themselves, they may still suffer from the trauma and residual effects that residential schools had on their families and communities. Many Indigenous women who are incarcerated suffer from intergenerational trauma.[55] According to the Correctional Investigator of Canada, approximately 50% of Indigenous women in federal custody "attended or had a family member attend a residential school."[56]

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[50] Ibid., 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[51] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[52] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[53] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1530 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

Some witnesses stated that the trauma caused by colonization, particularly by residential schools, must be addressed to solve the issue of the over-representation of Indigenous women in the justice and correctional systems.[57] For instance, Allen Benson said that the focus of healing interventions must be to address the "isolation from healthy family and community support networks, colonized identity, hopelessness and powerlessness, and being disconnected from legal traditions."[58] As well, Ruth ScalpLock, an Indigenous author, stressed the need for strong spiritual support to allow healing from intergenerational trauma.[59] Other witnesses told the Committee that healing interventions must be designed to be intergenerational and include children.[60]

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[54] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1700 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[55] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0915 (Hazel Miron, Senior Investigator, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1700 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0955 (Audra Andrews, Representative, Union of Solicitor General Employees); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1000 and 1005 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1105 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1555 (Darlene Shackelly, Executive Director, Native Courtworker and Counselling Association of British Columbia).

[56] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[57] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1700 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0955 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

[58] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[59] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Ruth ScalpLock, As an individual).

[60] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1235 (Felice Yuen, Associate Professor, Concordia University, As an Individual) and 1250 (Melanie Omeniho, President, Women of the Métis Nation).

2. Physical, Psychological and Sexual Violence

Indigenous women – First Nations, Métis and Inuit women – are more likely to be targets of violence than non-Indigenous women and Indigenous men:[61]

- According to the 2014 General Social Survey on Victimization, Indigenous women's rate of violent victimization was 220 violent incidents per 1,000 people. This rate was double that of Indigenous men, nearly triple that of non-Indigenous women and more than triple that of non-Indigenous men.[62]

- Indigenous women experienced spousal violence at three times the rate of non-Aboriginal women (10% compared to 3%).[63]

- Among Indigenous women, the self-reported rate of sexual assault was three times higher (at 11.5%) compared to the rate for non-Indigenous women (3.5%).[64]

- Between 1980 and 2012, the Royal Canadian Mounted Police (RCMP) indicated that Indigenous women accounted for a greater percentage of missing women (11.3%) and female homicides (16%) than their representation (4.3% in 2011) in Canada's total female population;[65]

- In its final report on the Sisters in Spirit initiative, the Native Women's Association of Canada initiative indicated that, as of 31 March 2010, 582 cases of missing and murdered Indigenous women had been entered in the database, of which 20% involved missing Indigenous women and girls, and 67% involved murdered Indigenous women and girls.[66] By comparison, in its 2014 report on missing and murdered Aboriginal women, the RCMP noted that there were 1,017 murdered Indigenous women between 1980 and 2012 and 164 missing Indigenous women at the time of the publication of the report.[67]

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[61] Department of Justice, *JustFacts: Indigenous overrepresentation in the criminal justice system*, January 2017.

[62] Jillian Boyce, "Victimization of Aboriginal people in Canada, 2014," *Juristat, Statistics Canada*, 28 June 2016.

[63] Ibid.

[64] Statistics Canada, *Self-reported victimization, 2014*, 23 November 2015.

[65] Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, 2014, pp. 7-9.

[66] Native Women's Association of Canada, *What Their Stories Tell Us: Research findings from the Sisters In Spirit initiative*, p. ii.

[67] Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, 2014, p. 7.

In a 2014 report by the House of Commons Special Committee on Violence Against Indigenous Women and Girls, some of the root causes of violence against Indigenous women were outlined including "human trafficking, substance abuse, prostitution, poverty, lack of housing and poor living conditions, lack of prevention services such as mental health services, and the ongoing legacy of residential schools," as well as systemic racism.[68] Donald Meikle told the Committee that "Indigenous women are more likely to be sold on our streets in Canada than [other identity groups]. They're vulnerable."[69]

In a written brief, Pauktuutit Inuit Women of Canada explained that women who are victims of violence in Inuit communities may be "left to defend themselves with force, by meeting violence with violence" or may be "homeless, sexually exploited, or returning to violent partners."[70] A representative from Indigenous and Northern Affairs Canada told the Committee that the department has family violence prevention programming and funds over 40 shelters across Canada where Indigenous women can find appropriate services to heal from the violence they have suffered.[71] However, in a written brief, Pauktuutit Inuit Women of Canada told the Committee that more "than 70 per cent of the 53 Inuit communities across the Canadian Arctic do not have a safe shelter for women."[72] The Committee was told that because of inadequate housing and the lack of shelter and transitional housing in many Indigenous communities, Indigenous women are more vulnerable to violence[73] and female victims of violence in those communities may remain in unsafe situations because they do not have safe housing options; this situation can lead Indigenous women to "come into conflict with the law."[74]

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[68] House of Commons Special Committee on Violence Against Indigenous Women and Girls, *Invisible Women: A Call to Action – A Report on Missing and Murdered Indigenous Women in Canada*, March 2014, 41st Parliament, 2nd Session.

[69] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1715 (Donald Meikle, Executive Director, Saskatoon Downtown Youth Centre Inc.).

[70] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[71] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1605 (Margaret Buist, Director General, Children and Families Branch, Education and Social Development Programs and Partnerships Sector, Department of Indigenous Services, Department of Indian Affairs and Northern Development).

[72] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[73] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1530 and 1615 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[74] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

The Committee heard that many Indigenous women who are offenders are also victims of violence.[75] According to the Correctional Investigator of Canada, the rate of physical, sexual and psychological abuse is extremely high among Indigenous offenders.[76] As well, Savannah Gentile, Director of Advocacy and Legal Issues at the Canadian Association of Elizabeth Fry Societies, told the Committee that in the case women's crime, "there's often resistive violence. Often, there's abuse that has led to the crime."[77] In a written brief, the Native Courtworker and Counselling Association of British Columbia told the Committee that addressing the victimization and degradation of Indigenous women is essential to reduce Indigenous women's criminalization in Canada.[78]

To end the cycle of violence, some witnesses said that Indigenous women who are victims of violence need holistic supports, including counselling, education, and access to employment.[79]

Furthermore, Indigenous men have an important role to play in ending violence against Indigenous women. Allen Benson told the Committee that Indigenous men must "start taking responsibility for the abuse that has happened in our communities" and that young Indigenous men should be provided with education on their roles in preventing violence and abuse in their communities.[80]

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[75] FEWO, Evidence, 1st Session, 42nd Parliament, 8 February 2018, 1630 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); SECU, Evidence, 1st Session, 42nd Parliament, 7 November 2017, 0900 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, Evidence, 1st Session, 42nd Parliament, 5 December 2017, 1210 (Carol McCalla, Principal, Office of the Auditor General) and 1250 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice); FEWO, Evidence, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Mo Korchinski, Program Coordinator, Unlocking the Gates Peer Health Mentor Program, Collaborating Centre for Prison Health and Education, University of British Columbia, As an individual); FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1650 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission); Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[76] SECU, Evidence, 1st Session, 42nd Parliament, 7 November 2017, 0900 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1650 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[77] FEWO, Evidence, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[78] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[79] FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1130 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.).

[80] SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 1035 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

Recommendation 7

That the Government of Canada make long-term operational funding for front-line community organizations, shelters and transition houses working to protect victims and survivors of violence and end violence against Indigenous women and girls eligible for federal support.

3. Substance Abuse and Mental Health Problems and Illnesses

The Committee heard that both substance abuse and mental health problems and illnesses contribute to Indigenous women's interactions with the criminal justice system. Some witnesses said that offences committed by Indigenous people are often committed under the influence of drugs or alcohol.[81] Dale LeClair, Chief of Staff at the Métis National Council, stated that a "continuum of issues," including the consumption of alcohol or drugs, lead Indigenous individuals "into the criminal justice system, then through the courts, and then eventually into the prison system."[82] The Correctional Investigator of Canada told the Committee that approximately half of incarcerated Indigenous women have a history of drug use compared to a quarter of incarcerated non-Indigenous women.[83] As well, according to the 2015-2016 Annual Report of the Office of the Correctional Investigator, among Indigenous women who were incarcerated, two-thirds reported that their parents had substance use issues.[84]

A number of witnesses told the Committee that a high percentage of Indigenous women in federal correctional facilities have mental health problems and illnesses.[85] In a written brief, the Office of the Correctional Investigator of Canada stated that approximately 80% of all federally incarcerated women meet the criteria for some mental health disorder, and that 25% of complex mental health cases in the federal correctional system are women.[86] Also, several witnesses told the Committee that a high number of incarcerated Indigenous women suffer from fetal alcohol spectrum disorders (FASD).[87]

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[81] Ibid., 0845 (Dale LeClair, Chief of Staff, Métis National Council); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[82] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0845 (Dale LeClair, Chief of Staff, Métis National Council).

[83] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[84] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2015–2016*, 2016, p. 43.

[85] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1200 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1040 (Audra Andrews, Representative, Union of Solicitor General Employees); Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

A representative from Indigenous Services Canada told the Committee that there are culturally relevant community-based programs offered on reserve, such as addiction treatment centres and drug and alcohol use prevention services.[88] The representative told the Committee that the department works with CSC "so that when offenders do come back out, these community-based programs are ready and adaptable to integrate them back into their communities."[89] However, the Committee heard that there must be increased supports for mental health services and programs in Indigenous communities to battle mental health problems and illnesses.[90] For instance, Stephanie Weasel Child said that there is a need for "more programs on reserve to battle the problems of addictions and poverty."[91] As well, Kassandra Churcher, Executive Director of the Canadian Association of Elizabeth Fry Societies, stated that "mental health and addiction treatment services are insufficient" in Indigenous communities.[92] Melanie Omeniho stated that incarceration "will never be a solution for us to fix addictions issues or to fix mental health issues."[93]

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[86] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

[87] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018; SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1025 (Audra Andrews, Representative, Union of Solicitor General Employees) and 0910 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[88] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1550 (Mary-Luisa Kapelus, Director General, Strategic Policy, Planning and Information, First Nations and Inuit Health Branch, Department of Indigenous Services, Department of Indian Affairs and Northern Development).

[89] Ibid.

[90] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation) and 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1620 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0910 (Hon. Kim Pate, Senator).

[91] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[92] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1610 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies).

[93] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1210 (Melanie Omeniho, President, Women of the Métis Nation).

Recommendation 8

That the Government of Canada, in partnership with Indigenous peoples and communities, increase funding for culturally sensitive and appropriate mental health and addiction services for Indigenous people.

Recommendation 9

That the Government of Canada issue a call for proposals for programming designed to help with the reintegration of Indigenous female offenders living with mental health problems and illnesses upon release into their communities.

4. Poverty

The Committee heard that poverty is a contributing factor to Indigenous women's interactions with the criminal justice system.[94] Indigenous women face greater economic insecurity than other groups of Canadians:[95] the median income and the employment rate for Indigenous women are significantly lower than those for non-Indigenous women.[96]

According to Savannah Gentile approximately 80 % of criminalized women in Canada are criminalized because of poverty-related offences.[97] Stephanie Weasel Child, Senior Manager of Claims and Research for the Siksika First Nation, shared the story of a young woman with the Committee: "I was talking to the justice staff earlier this week, and they told me the story of a young girl, who I think is only 19 or 20. She got into trouble in Edmonton. She appeared in court. She had a $60 fine. She had no resources to pay the fine. She had no family to help her out, so she had to go to jail."[98]

Indigenous Services Canada provides funding for primary and secondary education for eligible Indigenous students. As well, the department provides financial support for eligible Indigenous post-secondary students and supports "Canadian post-secondary institutions for the design and delivery of university and college level courses that respond to the education needs of First Nations and Inuit students."[99] Terry Teegee, Regional Chief at the Assembly of First Nations, told the Committee that he had concerns about the quality of education for Indigenous children, as the graduation rates are very low compared to those of the general population.[100] The Committee heard that there is a need for culturally appropriate education for Indigenous children because access to education contributes to economic well-being later in life.[101] Vicki Chartrand, Associate Professor at the Department of Sociology at Bishop's University, stated that "[w]e need to make sure that basic rights of [I]ndigenous people are being met. There are basic national standards of clean water, electricity, employment and educational opportunities, social service support, health care, and the like."[102]

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[94] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0915 (Terry Teegee, Regional Chief, Assembly of First Nations); Vicki Chartrand, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[95] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[96] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1530 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[97] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[98] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1225 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

Recommendation 10

That the Government of Canada increase awareness among Indigenous women of federal government benefits available to them and increase the number of Indigenous female recipients of federal government benefits among those who would be eligible to claim these benefits, but are currently unable to do so because they do not have a Social Insurance Number or have not filed their taxes.

5. Disconnection from Culture and Language

The Committee heard that many Indigenous women are dislocated from their lands and disconnected from their Indigenous culture and language.[103] This dislocation affects their ability to "be gainfully employed, participate in society as members of Canada, and create a life that is fulfilling," all of which are risk factors to criminalization.[104] Jacinthe Poulin, Health and Social Services Advisor at the Regroupement des centres d'amitié autochtones du Québec inc., told the Committee that Indigenous women in urban centres, in particular, can feel isolated and have a thinner "social fabric."[105]

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[99] Government of Canada, Post-secondary education.

[100] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0915 (Terry Teegee, Regional Chief, Assembly of First Nations).

[101] Ibid.

[102] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1105 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual).

[103] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0855 (Terry Teegee, Regional Chief, Assembly of First Nations); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0905 (Dale LeClair, Chief of Staff, Métis National Council).

[104] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0855 (Terry Teegee, Regional Chief, Assembly of First Nations).

As well, the Committee was told that some Indigenous women who have had interactions with the criminal justice system, and who have lost their connection to their Indigenous communities, may feel more at home in prison, which contributes to further criminalization.[106] Lois Frank, a Gladue Writer with Alberta Justice, said that one of her clients told her "The reserve is my jail; I feel safer in here."[107] Felice Yuen, Associate Professor at Concordia University, stated that she "heard numerous stories about how women revoke the conditions of their parole or reoffend so that they can go back" to correctional institutions; the women say 'It's good to be back home amongst my family.'"[108]

B. Resolving the Foster Care Crisis for Indigenous Children

The Committee was told that there is currently a foster care crisis in Indigenous communities, with a significant number of Indigenous children being taken away by child welfare agencies.[109] Terry Teegee said: "Right now, the children in the foster child care system outnumber the residential school system number at its highest point."[110] It is traumatic and disruptive for a child to be removed from their family and at times their community; this upheaval can contribute to criminalization later in life.[111]

The Committee heard that many Indigenous families lose custody of their children because of poverty-related factors; for instance, not being able to financially support their children or not being able to afford a home big enough for their family.[112] The Honorable Kim Pate, Senator, recommended redirecting the funding for child apprehension and foster care towards supporting Indigenous families. She stated:

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[105] FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1635 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.).

[106] SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 1020 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual); FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[107] SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 1020 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual).

[108] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[109] SECU, Evidence, 1st Session, 42nd Parliament, 23 November 2017, 1005 (Neal Freeland, As an Individual); Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[110] SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 0915 (Terry Teegee, Regional Chief, Assembly of First Nations).

[111] SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 0900 (Terry Teegee, Regional Chief, Assembly of First Nations).

> We spend a lot of money when we take people out of their homes. There are all kinds of resources in child welfare and foster systems, but virtually no money goes into their homes while those children are there to assist their families to deal with the issues that are facing them....[113]

Teresa Edwards explained that with the right supports, these families would not lose custody of their children.[114] She says:

> Child welfare comes in and says, "Sorry, you can't support your child adequately, so they're going to the state." The child goes into state care, and then we give a family $2,000 a month to raise someone else's child.[115]

Rajwant Mangat, Director of Litigation at West Coast Women's Legal Education and Action Fund, also explained that "racist and harmful views about what proper parenting looks like in our society"[116] result in Indigenous children being removed from their families by child welfare agencies.

Moreover, when Indigenous women are incarcerated, their children are often placed in foster care,[117] often outside of Indigenous communities.[118] As a result, the criminalization of Indigenous women directly contributes to the foster care crisis.[119] The Committee heard that removing children from their families and putting them in foster care is damaging to the children and contributes to ongoing intergenerational harm.[120] Many Indigenous children are placed in non-Indigenous families outside their communities, which can be particularly harmful, as it can distance the children from their culture.[121] According to Donald Meikle:

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[112] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[113] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 1015 (Hon. Kim Pate, Senator).

[114] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[115] Ibid.

[116] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[117] Ibid., 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[118] Ibid., 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[119] Ibid., 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services) and 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

> We are raising yet another generation of children with abandonment issues who will grow up with no ability to form relationships and who will not know how to bond. These current practices are expensive and damaging to children and their families. These practices create the conduit to a life of dysfunction into further poverty and institution-based care, such as our correctional facilities. The sad truth to this is that assisting them to become contributing citizens is cheaper and has more of a positive impact on the long-term cycle being broken.[122]

The Committee heard that there are other risks to placing Indigenous children in foster care. For instance, the Native Courtworker and Counselling Association of British Columbia, in a written brief, said that "Indigenous girls represented 25 per cent of the total children in care between 2011 and 2014, but they made up 61 per cent of children who experienced sexual violence by government mandated care providers."[123]

Some witnesses stated that it is important that the federal government address the foster care crisis for Indigenous children.[124] For instance, Audra Andrews, Union of Safety and Justice Employees, recommended that the federal government work with provinces and territories to address the foster care crisis in Indigenous families and communities.[125]

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[120] Ibid., 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[121] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1530 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[122] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1630 (Donald Meikle, Executive Director, Saskatoon Downtown Youth Centre Inc.).

[123] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[124] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1030 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta) and 0900 (Terry Teegee, Regional Chief, Assembly of First Nations); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 1015 (Hon. Kim Pate, Senator); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1625 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[125] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees).

Recommendation 11

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, address the over-representation of Indigenous children in the child welfare system by investing in initiatives focused on keeping Indigenous children with their families.

Recommendation 12

That the Government of Canada encourage provinces and territories who deliver child welfare services to Indigenous families to re-evaluate the requirements for child and family services to remove Indigenous children from parents who have previously been incarcerated.

Recommendation 13

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "commit to reducing the number of Aboriginal children in care by: i. Monitoring and assessing neglect investigations. ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside. iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools. iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing. v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers," as directed by call to action #1 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 14

That the Government of Canada, in collaboration with provinces and territories, "prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions," as directed by call to action #2 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 15

That the Government of Canada fully implement Jordan's Principle to ensure equitable access for First Nations children to all federal government services, as directed by call to action #3 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 16

That the Government of Canada immediately "enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that: i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.; ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.; iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate," as directed by call to action #4 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 17

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "develop culturally appropriate parenting programs for Aboriginal families," as directed by call to action #5 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

C. Collaborating with Indigenous Communities and Using Community Safety Planning

Several witnesses told the Committee that it is important that the federal government engage directly with Indigenous communities and facilitate the dialogue with those communities[126] because "Indigenous people have the answers to the problems that are assailing them in society."[127] In particular, the Committee heard that CSC does not effectively engage Indigenous communities, including Indigenous leaders, when making important decisions related to Indigenous offenders.[128] The Committee heard that in Indigenous communities, "if you want to change the individual, then you're going to need the community."[129]

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[126] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund) and 1125 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1650 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[127] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1625 (Denise Peterson, Councillor, Town of Strathmore, As an individual).

The Committee heard that safety planning in Indigenous communities, which aims to help communities build capacity to create a safe community, can be very successful in preventing crime. Public Safety Canada provides the Aboriginal Community Safety Development Contribution Program, which supports the development of community safety plans for Indigenous communities.[130] This program offers assistance to interested communities for the development of customized community safety plans, whereby communities identify how safety risks in their communities can be addressed and what kind of support is needed from all levels of government to address these risks.[131] The Committee was told that Public Safety Canada has worked with over 100 communities across Canada as part of the Aboriginal Community Safety Development Contribution Program to develop community safety plans, of which 29 have been completed.[132]

A representative from Public Safety Canada explained that there are many elements that contribute to a safe community, for example policing, youth centres, addiction treatment programs, schools, access to childcare and work programs.[133]

D. Implementing Crime Prevention Strategies

The National Crime Prevention Strategy (NCPS) is a "policy framework for the implementation of crime prevention interventions in Canada."[134] A representative from Public Safety Canada explained that the NCPS includes a northern and Indigenous fund that supports culturally appropriate crime prevention practices, in particular with regards to at-risk children and youth. In addition, the fund "supports the dissemination of knowledge and the development of crime prevention tools and resources" for

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[128] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0945 (Hon. Kim Pate, Senator); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0905 (Dale LeClair, Chief of Staff, Métis National Council).

[129] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 1010 (Hon. Kim Pate, Senator).

[130] Public Safety Canada, *Aboriginal Corrections*.

[131] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1545 (Angela Connidis, Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness).

[132] Ibid.

[133] Ibid.

[134] Public Safety Canada, *National Crime Prevention Strategy*.

Indigenous and northern communities.[135] According to Public Safety Canada, 46% of all crime prevention projects funded by the department since 2012 have involved Indigenous people or communities.[136]

In a written brief, the Native Courtworker and Counselling Association of British Columbia said that a comprehensive strategy is needed to prevent and address Indigenous women's criminalization; the brief recommended that the federal government should:

> Invest in an Indigenous women's justice panel to develop a five-year plan and a federal investment strategy to address:
>
> - Indigenous holistic service care for early intervention, diversion and prevention;
> - sentencing and alternatives to incarceration;
> - intensive supports for incarcerated Indigenous women; [and]
> - culturally relevant supports for successful reintegration with family and community.[137]

As well, some witnesses told the Committee that investing in comprehensive wraparound services for Indigenous women is one strategy to help prevent crime, as it may help them avoid incarceration and penalization in the justice and correctional systems.[138] Teresa Edwards said that Indigenous women "need to be receiving a holistic approach of counselling, well-being, getting financial literacy training, support and encouragement for education, and the means and opportunity for child care."[139]

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[135] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1150 (Angela Connidis, Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness).

[136] Ibid.

[137] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[138] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund) and 1105 and 1120 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[139] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

Recommendation 18

That the Government of Canada address the housing crisis for Indigenous peoples by introducing legislation to realize the right to housing in Canada, in accordance with its international obligations, and by investing, immediately and on an ongoing basis, in affordable housing for Indigenous women and families.

E. Developing Social Impact Bonds and Other Innovative Approaches

The Committee heard that there are some innovative approaches, such as social impact bonds, that could be used to limit Indigenous women's interactions with the criminal justice systme.[140] Social impact bonds are a "partnership agreement" often between government and a not-for-profit organization "based on the covenant that the organization will deliver on an outcome that government seeks to achieve," and often that outcome is a social benefit of some kind, for example better health outcome among older Canadians.[141]

Donald Meikle told the Committee that he has been working with Indigenous women for 25 years. He discussed the success of a project called "Sweet Dreams," that is financed with a social impact bond. The project seeks to keep "mothers and children together and out of the child welfare system."[142] Since 2013, Sweet Dreams has supported approximately 100 women and children.[143]

Lisa Lalande, Executive Lead for the Not-for-Profit Research Hub at the Mowat Centre, recommended the establishment of "What Works Centres" in Canada,[144] which are "a unique type of evidence institution" that have the "technical expertise to review and produce robust policy research as a resource to the public and to policy-makers."[145]

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[140] Mowat Centre, "House of Commons Committee on the Status of Women – Social Impact Bonds Submission," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 21 November 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1635 (Donald Meikle, Executive Director, Saskatoon Downtown Youth Centre Inc.); 1640 (Lisa Lalande, Executive Lead, Not-for-Profit Research Hub, Mowat Centre) and 1645 (Adam Jagelewski, Director, Center for Impact Investing, MaRS Discovery District).

[141] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1645 and 1700 (Adam Jagelewski, Director, Center for Impact Investing, MaRS Discovery District).

[142] Ibid., 1635 (Donald Meikle, Executive Director, Saskatoon Downtown Youth Centre Inc.).

[143] Ibid.

[144] Ibid., 1640 (Lisa Lalande, Executive Lead, Not-for-Profit Research Hub, Mowat Centre).

[145] Ibid.; Ibid., 1645 (Joanne Cave, Senior Policy Associate, Not-for-Profit Research Hub, Mowat Centre).

What Works Centres are normally independent from governments and focus on engaging community members so that they can participate in developing a research agenda and project outcomes.[146] Lisa Lalande recommended establishing a What Works Centre "co-led with existing [I]ndigenous organizations and research centres" and welcoming Indigenous peoples to "co-lead the organization's governance model, co-design the research agenda, and define what outcomes and impacts could look like."[147] However, witnesses from the Mowat Centre stated that they could not speak "to the experience of [I]ndigenous women in the criminal justice system."[148]

In a written brief, the Mowat Centre recommended that the Government of Canada invite Indigenous stakeholders to participate in the design and development of social impact bonds to address issues related to criminality or incarceration in their communities. However, Adam Jagelewski stated that it is "too early" to conclude that social impact bonds achieve better results than the current system.[149] He explained that, globally, there are only approximately 100 projects financed under a social impact bond and that "we need to test these more to determine whether the outcomes are better for society."[150]

Recommendation 19

That the Government of Canada examine the use of social impact bonds to determine whether they would reduce costs and increase outcomes for programs delivered within the federal justice system, with an emphasis on the delivery of mental health services and alternative programs such as healing lodges and community courts.

Indigenous Women's Access to and Treatment in the Justice System

The following sections provide a discussion of Indigenous women's access to and treatment in the justice system, including information on Indigenous women and police forces; Indigenous women's access to justice; judges and sentencing; and alternative and restorative justice.

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146 Ibid., 1640 (Lisa Lalande, Executive Lead, Not-for-Profit Research Hub, Mowat Centre).

147 Ibid.

148 Ibid.

149 Ibid., 1700 (Adam Jagelewski, Director, Center for Impact Investing, MaRS Discovery District).

150 Ibid.

The Committee heard that systemic problems in the justice system have a negative impact on Indigenous women's access to and treatment within that system.[151] For instance, Teresa Edwards stated that there is a need to acknowledge that racism exists within the justice system and to eliminate legal provisions that discriminate against Indigenous women.[152]

The justice system in Canada is complex: each province and territory has its own courts, there are federal courts with national jurisdiction, and the Supreme Court of Canada presides over the entire system.[153] The administration of justice is an area of shared jurisdiction between the federal government and the provinces and territories; the federal role is outlined in the *Department of Justice Act*. The Department oversees the administration of justice within the federal domain, with the goal of ensuring a "fair, relevant and accessible justice system for all Canadians."[154]

The Department of Justice also supports the dual roles of the Minister of Justice and the Attorney General of Canada. The department supports the Minister of Justice "in her responsibilities for 49 statues and areas of federal law by ensuring a bilingual and bijural national legal framework," in a number of domains including criminal justice, family justice, access to justice, and Indigenous justice.[155] The department also supports the Attorney General as the chief law officer of the Crown, in the "ongoing operations of government and of the development of new policies, programs and services for Canadians."[156]

The Department of Justice funds various initiatives with regards to Indigenous people in the justice system. These initiatives are detailed in the sections that follow.

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[151] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," ***Brief submitted to the House of Commons** Standing Committee on the Status of Women*, 12 February 2018.

[152] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[153] Department of Justice, *How the Courts Are Organized*.

[154] Department of Justice, *About Us*.

[155] Ibid.

[156] Ibid.

A. Indigenous Women and Police Forces

The Committee was informed that there is a longstanding distrust of many police forces across the country by Indigenous communities.[157] More than 600 Indigenous communities are policed by the RCMP, the federal police service.[158] The RCMP manages the National Aboriginal Policing Services (NAPS), a program that aims to work with "Aboriginal groups to develop innovative policing approaches that meet their distinctive needs."[159]

Some Indigenous communities have police services that are provided through the First Nations Policing Program (FNPP). Public Safety Canada delivers the FNPP, which includes funding to support policing services to First Nation and Inuit communities.[160]

The FNPP operates in accordance with the First Nations Policing Policy, a "national framework for the provision of policing services in First Nation and Inuit communities."[161] The policing services are supported through "tripartite policing agreements among the federal government, provincial or territorial governments, and First Nation or Inuit communities."[162]

According to Public Safety Canada, there are two main types of policing agreements under the FNPP:

- Self-administered Agreements, where a First Nation or Inuit community manages its own police service under provincial policing legislation and regulations; and

- Community Tripartite Agreements, where a dedicated contingent of officers from the Royal Canadian Mounted Police provides policing services to a First Nation or Inuit community.[163]

According to data provided by Public Safety Canada, in 2015–2016, the FNPP provided $120 million in funding for 1) 185 policing agreements (policing a population of approximately 432,000 people); and 2) 1,299 police officers in over 450 First Nation and Inuit communities.[164]

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[157] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[158] Royal Canadian Mounted Police, *About the RCMP*.

[159] Royal Canadian Mounted Police, *Serving Canada's Indigenous People*.

[160] Public Safety Canada, *Policing in Indigenous Communities*.

[161] Ibid.

[162] Ibid.

[163] Ibid.

Other Indigenous communities receive police services from provincial or municipal police forces, while Indigenous peoples living in non-Indigenous communities receive police services by the those jurisdictions' law enforcement agencies.

1. The Relationship Between Indigenous Peoples and Police Forces

Indigenous communities and other stakeholders indicated that there are "long-standing tensions between police and Indigenous communities in Canada."[165] The Committee heard that Indigenous people are often subject to racial profiling and racism from police officers.[166] Lois Frank said that "[k]ids are being carded when they're walking down the streets. One of the things I keep hearing is that the police are identifying these people and searching them out whenever there's a crime. There's racism that exists with policing."[167] A representative from the RCMP said:

> Ongoing work is required to foster and maintain respectful and trusting relationships with [I]ndigenous people. Although the RCMP has a long history of working co-operatively with [I]ndigenous people, for some there remains a feeling of fear and distrust towards the police and the criminal justice system.[168]

The Committee was told that Indigenous peoples are subject to "under" and "over" policing, as well as profiling and racism by police officers.[169] For instance, Debra Parkes, Professor and Chair in Feminist Legal Studies at the Peter A. Allard School of Law, University of British Columbia, explained that "certain communities are under more surveillance, especially if you're in an urban centre," but that when Indigenous women call police for help, they "are more likely to be charged themselves in a 'dual charge' or counter charge situation," for instance in cases of abuse.[170]

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[164] Ibid.

[165] Human Rights Watch, *Submission to the Government of Canada on Police Abuse of Indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence*, 19 June 2017.

[166] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1720 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1220 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation) and 1220 (Lois Frank, Instructor, Native American Studies, Criminal Justice, University of Lethbridge, As an Individual).

[167] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1030 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual).

[168] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1230 (Shirley Cuillierrier, Assistant Commissioner, Senior Advisor on Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women and Girls, Royal Canadian Mounted Police).

[169] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1135 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual).

Some witnesses said there is a need for better cultural training for police officers in order to build trust between police officers and Indigenous women.[171]

A representative of the RCMP said the force "provides cultural awareness training to all its employees, with the belief that it is important to understand and be sensitive to the history of colonialism and discrimination that [I]ndigenous communities have faced."[172] She explained that it's important to understand the root of the socio-economic conditions that lead to crime and victimization.[173]

Several RCMP initiatives aim to improve the relationship between Indigenous women and the force including a comprehensive study on police-reported incidents of violence against Indigenous women and girls; an update to the RCMP's policy on missing persons; and the creation of a National Indigenous Liaison position to support communication with Indigenous organizations.[174]

Furthermore, the Committee heard that it is important to increase the representation of Indigenous people within police forces across Canada.[175] As of April 2016, approximately 1,500 RCMP police officers self-identified as Indigenous (8% of officers).[176]

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[170] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1720 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[171] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1720 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[172] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1235 (Shirley Cuillierrier, Assistant Commissioner, Senior Advisor on Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women and Girls, Royal Canadian Mounted Police).

[173] Ibid.

[174] Ibid., 1230 and 1035.

[175] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1620 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[176] Royal Canadian Mounted Police, *Results and Respect in the RCMP Workplace*, 2016.

The Committee was told that Indigenous police forces are inadequately funded.[177] For instance, Terry Teegee said: "We have [I]ndigenous police forces that are grossly underfunded, with no pay equity and outdated equipment."[178]

Recommendation 20

That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, develop and implement strategies to improve Indigenous people's trust in law enforcement agencies.

Recommendation 21

That the Government of Canada, in partnership with Indigenous peoples and communities and in collaboration with non-governmental organizations, require the Royal Canadian Mounted Police to provide its members and staff with culturally relevant training and education on how Indigenous history, Indigenous cultures, and colonization must be considered when interacting with Indigenous peoples, as well as training and education on how to use a trauma-informed approach when interacting with Indigenous women.

Recommendation 22

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms," as directed by call to action #40 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

B. Indigenous Women's Access to the Justice System

The Committee heard that Indigenous women face various barriers in accessing the justice system, "including the complexity of legal processes, language barriers, lack of awareness, lack of support, and lack of legal aid and other resources."[179] The sections that follow examine some of those barriers.

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[177] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1620 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0935 (Terry Teegee, Regional Chief, Assembly of First Nations).

[178] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0935 (Terry Teegee, Regional Chief, Assembly of First Nations).

[179] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

1. Access to Legal Aid

Witnesses told the Committee that access to legal representation should be improved across Canada,[180] which reflects recommendations from CEDAW.[181] In small communities, access to justice and legal services, such as legal aid, is often non-existent.[182] A representative from the Department of Justice told the Committee that the federal government works with provinces and territories to provide culturally appropriate legal aid services, including to Indigenous women facing criminal charges.[183]

However, Debra Parkes explained that "the amount of federal money that's going to legal aid has not kept pace with the need nationally."[184] Jennifer Metcalfe, Executive Director at West Coast Prison Justice Society/Prisoners' Legal Services, stressed the need for increased legal aid funding, especially for prisoners. Indeed, Jennifer Metcalfe said that Prisoner's Legal Services is the only full legal aid clinic for prisoners in Canada.[185]

Recommendation 23

That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, ensure that Indigenous women, including incarcerated Indigenous women and Indigenous women who are victims of crimes, have improved access to legal assistance, including improved access to civil legal aid, by earmarking funds for this aid in the Canada Social Transfer, as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth period reports of Canada.

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[180] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Denise Peterson, Councillor, Town of Strathmore, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1600 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic) and 1705 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[181] United Nations, Committee on the Elimination of Discrimination against Women, Concluding observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CA/CO/8-9, 25 November 2016.

[182] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Denise Peterson, Councillor, Town of Strathmore, As an individual) and 1605 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies).

[183] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1225 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice).

[184] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1705 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[185] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1120 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

Recommendation 24

That the Government of Canada, in collaboration with provinces and territories and with particular attention to Indigenous women, "[r]eview criteria applied in income tests for eligibility to ensure access to civil legal aid, especially in the area of family law, for all women without sufficient means," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

Recommendation 25

That the Government of Canada, in collaboration with provinces and territories, "recruit and train more [I]ndigenous women to provide legal aid to women from their communities, including in domestic violence cases and on property rights, and to review its legal aid scheme to ensure that [I]ndigenous women who are victims of domestic violence have effective access to justice," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

2. Access to Culturally Appropriate Services

The Committee was told that there is a need for more culturally appropriate services and programs for Indigenous individuals, including Indigenous women, in the justice system.[186] These programs should assist Indigenous people in understanding their rights and responsibilities as they travel through the criminal justice system.[187]

In a written brief, the Native Courtworker and Counselling Association of British Columbia noted that their Native Courtworkers "serve as a 'bridge' between criminal justice officials and Indigenous people and communities, by promoting communication and understanding and breaking down the many barriers to justice experienced by Indigenous people."[188]

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[186] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[187] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[188] Ibid.

A representative from the Department of Justice told the Committee about different programs and services managed by the Department, including:

- The Indigenous Courtwork Program (ICP): the ICP aims to provide equitable and culturally relevant treatment to Indigenous people involved in the criminal justice system.[189] The ICP helps Indigenous individuals to request legal counsel and understand the functioning of the justice system. As well, the ICP assists individuals involved in the administration of the criminal justice system to "appreciate the values, customs, languages and socio-economic conditions of Indigenous people."[190] The ICP serves 55,000 to 60,000 Indigenous individuals every year, of which approximately 17,000 are Indigenous women. The ICP is not currently offered in Newfoundland and Labrador, Prince Edward Island or New Brunswick.[191]

- The Indigenous Justice Program (IJP): the IJP – formerly the Aboriginal Justice Strategy – provides "cost-effective, culturally relevant alternatives to the mainstream justice program in appropriate circumstances where we are trying to promote meaningful reparation of harm for the victims, offenders, and the communities."[192] There are approximately 200 federally supported community justice programs across Canada, serving over 9,000 clients annually. Budget 2017 provided an ongoing permanent mandate to the IJP.[193]

- The Justice Partnership and Innovation Program – Violence Against Aboriginal Women and Girls: this program has the goal of reducing the vulnerability of young Indigenous women and girls to violence through "the development of models and programs to empower Aboriginal women, and the development of resources and tools to provide Aboriginal women and girls with alternatives to risky behaviour."[194]

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[189] Department of Justice, *Indigenous Courtwork Program*.

[190] Ibid.

[191] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1220 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice).

[192] Ibid.

[193] Ibid.

[194] Department of Justice, *Justice Partnership and Innovation Program – Violence Against Aboriginal Women and Girls*.

- The Victims Fund: through the Victims Fund, the Department of Justice provides funding for two services for families of missing and murdered Indigenous women: Family Information Liaison Units (a service through which families can access information about a missing or murdered family member) and community-based grief and trauma counselling.[195]

Recommendation 26

That the Government of Canada increase funding for culturally appropriate federal justice programs and services for Indigenous women, with the goal of increasing Indigenous women's access to justice, and ensure that these programs and services are tailored to their needs, including to the specific needs of Inuit and Métis women.

Recommendation 27

That the Government of Canada, in collaboration with Indigenous peoples and communities, provide increased support to community organizations that offer justice-related services to Indigenous women who are victims of crimes.

3. Training within the Justice System

Some witnesses recommended that key players within the justice system be provided with education and awareness training on Indigenous history and issues, in particular about intergenerational trauma arising from residential school experiences.[196] Lowell Carroll told the Committee that there is "a lack of holistic practices and insight into the interconnectedness of social and legal issues faced by aboriginal women and aboriginal people in general" in the justice system.[197] It was recommended that such training be systematic and mandatory for lawyers, police officers, judges, crown prosecutors, probation officers and others.[198]

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[195] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1250 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice); and Department of Justice, *Supporting Families of Missing or Murdered Indigenous Women and Girls*.

[196] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1105 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1010 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees); 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); and 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Denise Peterson, Councillor, Town of Strathmore, As an individual); Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

The Correctional Investigator of Canada stated that it is the responsibility of all key players in the justice system to ensure that the injustices towards Indigenous women are not perpetuated.[199] Debra Parkes said that training is needed to counter negative and harmful stereotypes that are "made about [I]ndigenous women as dangerous, as violent, as women we need to be protected from," even when an Indigenous woman is the victim of or witness to a crime.[200]

Recommendation 28

That the Government of Canada, in collaboration with the "Federation of Law Societies of Canada, ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations," including "requiring skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism," as directed by call to action #27 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 29

That the Government of Canada, in collaboration with provinces and territories, "call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal – Crown relations," including "requiring skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism," as directed by call to action #28 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

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[197] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[198] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[199] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0925 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[200] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1725 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

Recommendation 30

That the Government of Canada encourage the Canadian Judicial Council to establish seminars and other education material for the continuing education of judges, including in respect of matters related to history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, treaties and Aboriginal rights, Indigenous law, and Aboriginal – Crown relations, as well as skills-based training in intercultural competency, conflict resolution, human rights, antiracism, sexual assault law and social context that has been developed in consultation with sexual assault survivors, as well as with groups and organizations that support them and that the training be broadly available to the judiciary, crown prosecutors, police forces and lawyers.

C. Judges and Sentencing

The Committee heard that Indigenous women may not receive fair treatment during sentencing in the criminal justice system. In a written brief, the Native Courtworker and Counselling Association of British Columbia recommended that the federal government invest in a strategy to address bias during sentencing and alternatives to incarceration.[201]

To help improve the treatment of Indigenous women in the justice system, Stephanie Weasel Child recommended that there be more Indigenous women practising as judges.[202] The Department of Justice manages the Legal Studies for Aboriginal People Program, which "promotes the equitable representation of Aboriginal people in the legal profession by providing bursaries to Métis and non-status Indians who wish to attend law school."[203]

1. Mandatory Minimum Sentences

A number of witnesses spoke in support of judicial discretion for sentencing and expressed their opposition to mandatory minimum sentences, whereby legislation requires judges to deliver fixed sentences to individuals convicted of certain crimes.[204] In Canada, mandatory minimum sentences are legislated in the *Criminal Code* and the *Controlled Drugs and Substances Act*. Mandatory minimum sentences generally apply to certain types of crimes, such as first- and second-degree murder,[205] use of a firearm in the commission of an offence,[206] and for some drug-related offences.[207]

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[201] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[202] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[203] Department of Justice, *Legal Studies for Aboriginal People Program*.

Some witnesses said that the imposition of mandatory minimum sentences for a number of offences disproportionately affect Indigenous women.[208] Debra Parkes indicated that mandatory minimum sentence requirements restrict sentencing judges from considering mitigating factors, such as "the implications of removing mothers, many of whom are sole caregivers, from their children and family," or limits judges' ability to consider lower levels of culpability "for instance, being a party to a spouse's offences or acting in relation to an offence against oneself or one's child."[209] As well, Jonathan Rudin, Program Director at Aboriginal Legal Services, stated:

> Any mandatory minimum sentence prevents a conditional sentence from being put in.... What happens then is that the person goes to jail, and if they don't have someone to look after their kids, they will lose their kids.... Even if the person gets their children back, they will have been removed from their families.... That experience of being taken from your family and put into foster care ... is incredibly damaging.[210]

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[204] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1625 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1145 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[205] *Criminal Code*, R.S.C., 1985, c. C-46, s. 235.

[206] Ibid., s. 85(3).

[207] *Controlled Drugs and Substances Act*, S.C. 1996, c. 19.

[208] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1630 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[209] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1630 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[210] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

Furthermore, a number of witnesses stated that mandatory minimum sentences prevent judges from examining the circumstances of an offender's crimes[211] and undermine section 718.2(e) of the *Criminal Code*, which states that, when imposing a sentence, a court shall consider "all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders."[212] Rajwant Mangat told the Committee:

> I think that mandatory minimum sentences strip away what the sentencing judge is supposed to do. They undermine the *Criminal Code*. The *Criminal Code* asks our sentencing judges to set a fit and proportionate sentence, and we're supposed to be looking at the Gladue factors when we do that. When you set a mandatory minimum, you take away the judge's ability to do his or her job.[213]

A representative from the Department of Justice explained that section 718.2(e) of the *Criminal Code* is intended "to give special consideration to Indigenous offenders to better understand the underlying conditions leading to crime."[214] The Honourable Kim Pate, Senator, explained that the original intent of section 718(2)(e) of the *Criminal Code* was to reduce the prevalence of incarceration among Indigenous people and that social history factors were to be looked at by the entire justice system: police forces, parole officers and judges.[215]

Understanding the context of women's crimes is important because "[i]f it's a violent crime, there's often resistive violence. Often, there's abuse that has led to the crime."[216] The Committee heard that some female offenders "would be better managed under a conditional sentence,"[217] which could allow some mothers to keep custody of their children.[218]

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[211] FEWO, Evidence, 1st Session, 42nd Parliament, 8 February 2018, 1630 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services); Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[212] Criminal Code, R.S.C., 1985, c. C-46, s. 718.2(e).

[213] FEWO, Evidence, 1st Session, 42nd Parliament, 12 December 2017, 1145 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[214] FEWO, Evidence, 1st Session, 42nd Parliament, 5 December 2017, 1245 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice).

[215] SECU, Evidence, 1st Session, 42nd Parliament, 23 November 2017, 1000 (Hon. Kim Pate, Senator).

[216] FEWO, Evidence, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

Several witnesses recommended that the federal government eliminate mandatory minimum sentences for most offences.[219] For instance, in a written brief, the Canadian Aboriginal AIDS Network and partner organizations recommended that the federal government "[r]epeal all mandatory minimum prison sentences for non-violent offences, which effectively prevent judges from considering a person's Indigenous heritage or connection."[220] As well, Jonathan Rudin recommended that the federal government "bring in the legislation they have promised to bring in to restore to judges their discretion to sentence people without the burden of mandatory minimum sentences and the restrictions on conditional sentences."[221]

Recommendation 31

That the Government of Canada immediately table legislation to "amend the *Criminal Code* to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences," as directed by call to action #32 of the 2015 Report of the Truth and Reconciliation Commission of Canada and in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

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[217] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1145 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[218] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[219] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1715 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual) and 1625 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[220] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[221] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

Recommendation 32

That the Government of Canada remove the requirement to automatically incarcerate an Indigenous female offender in a maximum security facility for the first two years of a murder sentence.

2. Gladue Reports

The 1999 *R. v. Gladue* Supreme Court of Canada decision underlined principles for judges to consider when sentencing an Indigenous offender; for instance, requesting the development of pre-sentencing or Gladue reports. The ruling states:

In sentencing an Aboriginal offender, the judge must consider:

> (a) The unique systemic or background factors which may have played a part in bringing the particular aboriginal offender before the courts; and (b) The types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular aboriginal heritage or connection.[222]

According to Lois Frank, Gladue reports generally include information on the community of origin, community history, mental and physical health, family history, and impact of residential school of an Indigenous offender.[223] The Honourable Kim Pate, Senator, told the Committee:

> Some very good Gladue reports will describe all kinds of things we should be doing differently, but essentially they list all the deficits that people have had in their lives and all the horrible things they've experienced without necessarily then prescribing the remedy of how we prevent them from ending up in the system at all, or further, and then how we get them out.[224]

a. Availability, Consideration and Misuse of Gladue Reports

The Committee was told that Gladue reports are not universally available across Canada and that many Indigenous offenders do not receive a Gladue report.[225] As of September 2017, independent Gladue reports were available in British Columbia, Alberta, Ontario,

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[222] *R. v. Gladue*, [1999] 1 R.C.S., p. 690.

[223] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1010 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual).

[224] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 1000 (Hon. Kim Pate, Senator).

[225] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1210 (Melanie Omeniho, President, Women of the Métis Nation); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1115 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

Quebec, Nova Scotia and the Northwest Territories.[226] Melanie Omeniho told the Committee that Indigenous offenders are sometimes not advised or are discouraged by their attorney from asking for a Gladue report.[227]

When available, Gladue reports are often not fully considered, or do not always have a positive influence on the sentencing of Indigenous individuals.[228] Odessa Marchand, an Indigenous woman and former inmate, shared her experience regarding Gladue reports with the Committee:

> When I started my journey for my sentencing, I was on the Gladue report. I didn't really know anything about that. When I was in a facility, the [E]lder at the time really didn't explain to me what a Gladue report was, and then later I found out what a Gladue actually is, that it's supposed to help me get time off my sentencing, but my Gladue report was.... There was supposed to be an Aboriginal [person] taking my Gladue report and there wasn't, and I feel it didn't help me one bit because my Gladue report wasn't what I said. There were mixed words in it. I think that with Gladue reports, maybe people should take more time and look at them more seriously than they do.[229]

The Correctional Investigator of Canada said that guidance and training on how to consider Indigenous social history in decisions are not adequate and that Gladue factors are therefore not given enough consideration in decisions regarding the sentence of Indigenous offenders.[230] Debra Parkes told the Committee:

> Gladue factors—and these are social history factors—are, in effect, used against [I]ndigenous women in the context of risk assessment decisions at all levels of the criminal justice system—bail, sentencing, correctional placement and planning, security classification, parole, and other correctional decision-making. The fact that [I]ndigenous women have often experienced extreme trauma, poverty, substance use, and other forms of marginalization is used as evidence that they need more correctional intervention and more time in prison.[231]

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[226] Department of Justice Canada, "Spotlight on Gladue: Challenges, Experiences, and Possibilities in Canada's Criminal Justice System," *Research and Statistics Division*, September 2017, p. 27.

[227] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Melanie Omeniho, President, Women of the Métis Nation).

[228] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1625 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0955 (Neal Freeland, As an Individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1555 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1140 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[229] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Odessa Marchand, As an individual).

[230] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0850 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[231] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1635 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

The Committee heard that the availability of Gladue reports should be increased for Indigenous individuals during sentencing.[232] As well, some witnesses told the Committee about the need for more consideration of Gladue factors by judges at sentencing.[233]

The Committee also heard about the way Gladue reports can be used by CSC and at parole hearings. A representative from the Department of Justice explained that Gladue reports can be transferred to CSC so that they can be used "to better set up case management plans for these individuals when they are in the facility" in part because there are "recommendations in [the Gladue report] on what would be appropriate for when [the offender] go[es] back into the community."[234] As well, a representative from the Parole Board of Canada told the Committee that "Aboriginal social history factors are a vital consideration in all board member risk assessments for [I]ndigenous offenders, and the board provides [I]ndigenous cultural awareness training for all its board members and staff."[235] However, Kathryn Fereira told the Committee:

> [T]he problem is that we haven't done a good job on how these factors impact the final decision. For example, we're supposed to be considering the Gladue factors in parole decisions, but I'm not sure that the consideration of these factors is having a direct impact on the decision that is being made.[236]

As well, Jonathan Rudin explained that funding for Gladue reports is primarily "to provide Gladue reports to the courts," and not to the Parole Board of Canada.[237]

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[232] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees).

[233] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada) and 1725 (Odessa Marchand, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[234] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1245 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice).

[235] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1145 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[236] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1615 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[237] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1225 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

Recommendation 33

That the Government of Canada ensure that Gladue reports are not misused against an Indigenous female offender during classification, incarceration and/or parole hearings, and that personnel at Correctional Service Canada and at the Parole Board of Canada receive training on the purpose of Gladue reports.

Recommendation 34

That the Government of Canada support Gladue principles, enforce culturally appropriate and sensitive Gladue reporting, and ensure that timely Gladue reporting is made accessible to Indigenous women, through a federally guided regional needs assessment.

Recommendation 35

That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, develop and implement a strategy to improve the use of high-quality Gladue reports in the justice system.

Recommendation 36

That the Government of Canada encourage provinces and territories to work in partnership with Indigenous peoples and communities to coordinate efforts to implement gender-responsive Gladue reporting.

b. Lack of Gladue Writers

The Committee was informed that there is a need for more trained and experienced Gladue writers.[238] Kassandra Churcher explained that Gladue writers must be qualified because:

> The formalized process itself, where someone discloses their own personal history in a report that will have consequences for their sentencing, requires someone who has quality training and there are not enough people in Canada to do it. Often, women have contacted us because their reports are not complete. They did not feel comfortable disclosing further information, so their sentencing is then incomplete, which completely undermines the purpose of having a social history report.[239]

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[238] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1240 (Lois Frank, Instructor, Native American Studies, Criminal Justice, University of Lethbridge, As an Individual).

[239] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1555 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies).

Recommendation 37

That the Government of Canada provide additional resources to train and support Gladue writers in all provinces and territories, and to address the skills and personnel deficit that has resulted in the misrepresentation, inadequate representation, and unjust sentencing of Indigenous female offenders.

c. Lack of Funding for Gladue Reports

The Committee heard that funding for Gladue reports is not sufficient to respond adequately to the needs of Indigenous offenders. How Gladue Report-writing programs are funded vary greatly across Canada, but most provinces and territories that have Gladue report-writing programs have developed partnerships with non-governmental organizations that receive funding "to ensure that Gladue type of information is incorporated systematically into sentencing decision procedures" for Indigenous offenders.[240]

Melanie Omeniho told the Committee that because of limited resources, defence attorneys may discourage an Indigenous offender from obtaining a Gladue report or choose not to present a Gladue report if the offender "is not visibly an Indigenous person."[241] Some witnesses stressed the need for increased funding for Gladue reports.[242] Jonathan Rudin recommended that the federal government provide funding for Gladue reports on a cost-sharing basis with provinces and territories.[243]

Recommendation 38

That the Government of Canada, in collaboration with provinces and territories, negotiate a cost-sharing agreement to fund the writing of Gladue reports and the training of new Gladue writers.

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[240] Department of Justice, *Gladue Practices in the Provinces and Territories*.

[241] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1210 and 1240 (Melanie Omeniho, President, Women of the Métis Nation).

[242] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1115 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[243] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1225 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

3. Guilty Pleas

The Committee was told that some Indigenous women who are being tried in the criminal justice system may plead guilty, at times accepting responsibility for a crime for which they are not entirely responsible, have a strong defence, or for which they are not culpable at all. A number of witnesses explained that some of the reasons that Indigenous women may choose to plead guilty include:

- a lack of understanding of, or of trust in, the justice system;
- limited or no access to relevant or sufficient legal support;
- a desire not to involve their children, who could be called as witnesses; and/or
- the assumption that pleading guilty is an easier or faster way for them to get back to their families.[244]

The Committee heard that "Indigenous people tend to be overcharged and plead guilty at higher rates than non-[I]ndigenous people."[245] Debra Parkes said that Indigenous women are more likely than the general population to "plead guilty to manslaughter or even to second-degree murder to take the lowest possible sentence that they can get with the plea bargain, even when they have very valid, strong defences."[246] She added:

> It goes to lack of trust in the justice system. It goes to concerns about not wanting to put their kids on the stand in cases where it involves a spousal relationship and a homicide in that context. I've heard very many times from women who are incarcerated that they pleaded guilty because they didn't want to have their kids be witnesses in the trial. There are all kinds of reasons why mothers, women, have different pressures on them to plead guilty.[247]

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[244] Ibid., 1215 (Melanie Omeniho, President, Women of the Métis Nation); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1605 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1705 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1000 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual).

[245] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1630 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[246] Ibid., 1705 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[247] Ibid.

D. Alternative and Restorative Justice

A number of witnesses recommended a shift towards alternative and restorative justice in Canada's justice system. For instance, Lowell Carroll said:

> We need to figure out or decide whether the justice system exists as a conduit for punishment or retribution, or whether the focus of the justice system is on prevention, rehabilitation, and creating a society that is just for all.[248]

Several witnesses stated that the justice system is punitive and should instead be focussed on rehabilitation.[249] The Committee was told that the concept of punishment is not central to Indigenous cultures, for which the focus on restoration from harm is more important.[250]

A number of witnesses suggested introducing more restorative or culturally appropriate options within the justice system.[251] A representative from the RCMP told the Committee that the RCMP has engaged in restorative justice programs and believes that "they are very beneficial to [I]ndigenous women by diverting them from criminal charges" and "protects them from harm through reconciliation and restoration."[252] The Committee heard about the successes of various restorative justice programs and practices across Canada, such as:

- the Aiskapimohkiiks Program, which is a "two-phased mediation and/or arbitration model that incorporates Siksika's customs and traditions"[253] that has been successful in preventing involvement in the justice and correctional systems; and[254]

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[248] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[249] Ibid.; SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1030 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[250] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[251] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Chas Coutlee, As an individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0855 and 0910 (Terry Teegee, Regional Chief, Assembly of First Nations); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Denise Peterson, Councillor, Town of Strathmore, As an individual).

[252] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1235 (Shirley Cuillierrier, Assistant Commissioner, Senior Advisor on Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women and Girls, Royal Canadian Mounted Police).

[253] Department of Justice, *Disclosure of Grant and Contribution Awards*.

[254] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1555 (Denise Peterson, Councillor, Town of Strathmore, As an individual).

- the Odawa Native Friendship Centre's Community Justice Program, which seeks to "provide meaningful alternatives to the mainstream Criminal Justice system for both youth and adult Aboriginal offenders" by developing a Healing Plan.[255]

Jennifer Metcalfe recommended that the federal government "engage with First Nations and Indigenous organizations so that they may achieve self-determination in the administration of criminal justice."[256] As well, Indigenous organizations should receive the supports necessary so that they can administer Indigenous courts based on restorative justice practices and alternatives to incarcerations when appropriate.[257]

Recommendation 39

That the Government of Canada implement and further invest in community-based rehabilitation and restorative justice methods for Indigenous female offenders rather than incarceration for low and medium security Indigenous female offenders.

Recommendation 40

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, immediately and on an ongoing basis "provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending," as directed by call to action #31 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

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[255] Odawa Native Friendship Centre, "Program Description," *Odawa Aboriginal Community Justice Program*; SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0940 (Neal Freeland, As an Individual).

[256] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[257] West Coast Prison Justice Society/Prisoners' Legal Services, "Brief to the House of Commons Committee on the Status of Women: Decarceration of Indigenous Women through Self-Determination," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

1. Community Courts

The Committee heard about the potential of community courts to address the contributing factors and root causes of criminality, such as poverty and mental health problems and illnesses, in an individualized way.[258] Lowell Carroll explained that community courts are a more collaborative way of dealing with an individual's problems compared to the justice system that is more punitive.[259] A representative from the Department of Justice stated:

> The outcomes for the participants going through these programs are quite impressive; 89% of the clients who are diverted to a community justice program have successfully completed their justice processes and client obligations and are not incarcerated as a result. From a recidivism point of view, 43% of those who have completed the program are less likely to reoffend than are those who did not participate.[260]

Some witnesses stressed the need for more community courts across Canada.[261] For instance, Denise Peterson, Councillor, Town of Strathmore, stated that: "If we truly believe that the correct approach is to focus on healing and prevention, my belief is that community courts directed and guided by [I]ndigenous community knowledge keepers and experts are the very best option."[262]

Recommendation 41

That the Government of Canada, in partnership with Indigenous peoples and communities, establish community courts in Indigenous communities for non-violent offences.

Recommendation 42

That the Government of Canada, in collaboration with provinces and territories, "commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples,

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[258] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Denise Peterson, Councillor, Town of Strathmore, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[259] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1635 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[260] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1225 (Elizabeth Hendy, Director General, Programs Branch, Policy Sector, Department of Justice).

[261] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Denise Peterson, Councillor, Town of Strathmore, As an individual).

[262] Ibid.

the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012," as directed by call to action #42 of the 2015 Report of the Truth and Reconciliation Commission of Canada, and adopt without delay Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.

Indigenous Women in the Federal Correctional System

Indigenous women are overrepresented in the federal correctional system. The Office of the Correctional Investigator of Canada reported that Indigenous women represented 38% of all incarcerated women and 27% of all women supervised in the community in Canada as of November 2017, despite representing approximately 5% of Canada's total female population.[263] Furthermore, among incarcerated women, the regional breakdown for Indigenous women was:

- Pacific region: 43 Indigenous women of 86 female inmates (50.0%);
- Prairie region: 163 Indigenous women of 248 female inmates (65.7%);
- Ontario region: 43 Indigenous women of 197 female inmates (21.8%);
- Quebec region: 4 Indigenous women of 90 female inmates (4.4%); and
- Atlantic region: 12 Indigenous women of 80 female inmates (15.0%).[264]

The following section examines Indigenous women's involvement in the federal correctional system, including the security level classification of Indigenous women; segregation and solitary confinement; access to programming, including culturally sensitive programming; Sections 81 and 84 of the *Corrections and Conditional Release Act*; access to training and education for inmates; mental health and other health services; the effect of CSC employees and the workplace on Indigenous women's well-being; the importance of relationships with family for Indigenous female inmates; parole reintegration and healing; and "decarceration" strategies.

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[263] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017; Statistics Canada, "Census Profile, 2016 Census," Aboriginal peoples.

[264] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

A. The Role of Correctional Service Canada

Correctional Service Canada (CSC) manages institutions of various security levels, prepares inmates for safe and timely release, and supervises offenders under conditional release and long-term supervision orders in the community. The Deputy Commissioner for Women is "responsible for the development and oversight of programs for women offenders."[265]

CSC and the Parole Board of Canada are under the portfolio of Public Safety Canada. Public Safety Canada aims to harmonize policies among federal agencies and departments that are involved in "crime prevention, law enforcement and corrections, with the goal of advancing effective corrections policy in the interest of public safety."[266]

CSC has 18,000 employees (77% working in institutions) and is responsible for approximately 23,000 offenders (15,000 incarcerated and 8,000 supervised in the community).[267] CSC operates:

- 43 institutions of various security levels;
- 15 community correctional centres; and
- more than 90 parole offices.

Included in the aforementioned facilities, CSC operates six multi-level women's institutions (one of which is an Indigenous healing lodge).[268] In addition, incarcerated Indigenous women can also access the Buffalo Sage Wellness House, a community-operated healing lodge.

Furthermore, CSC partners with non-governmental organizations such as the John Howard Society and the Elizabeth Fry Society, which operate approximately 200 community residential facilities and support services across the country.[269]

A number of witnesses suggested that over the last decades, the approach taken by CSC has drifted from that envisioned in 1990 in *Creating Choices: The Report of the Task*

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[265] Correctional Service Canada, How We Operate.

[266] Public Safety Canada, Federal and provincial responsibilities.

[267] Correctional Service Canada, About Correctional Service Canada.

[268] Correctional Service Canada, Women's Facilities.

[269] Correctional Service Canada, About Correctional Service Canada.

Force on Federally Sentenced Women.[270] For instance, Jennifer Metcalfe told the Committee that there has been "a real decline in the women-centric approach from the beginning of [the Fraser Valley Institution for Women] and the other women's prison" and that "during the Harper era, which had the tough-on-crime agenda, it really affected the way they run the women's prisons."[271] According to Rajwant Mangat, women's correctional facilities now use a "risk-centric, [and] security-centric approach," which makes women's facilities look similar to men's facilities.[272] Savannah Gentile told the Committee that "[o]ver time, you see CSC's great resistance to any recommendations, dating back to the 1996 Arbour report."[273] Marie-Claude Landry, Chief Commissioner of the Canadian Human Rights Commission, recommended that CSC "simply stop studying, [and] start implementing." She added:

> We must stop conducting studies. Studies have been done for a number of years. There was Ms. Arbour's study and several others prior to that. There was the study of the Canadian Human Rights Commission in 2003, and there have been many others ever since. There have been recommendations, but they have not been implemented. This is the priority.[274]

The Correctional Investigator of Canada has repeatedly recommended that CSC establish a Deputy Commissioner for Indigenous People, a position that would be solely accountable and responsible for Indigenous corrections, particularly with respect to "improving correctional outcomes and accountability for federally sentenced [I]ndigenous offenders."[275] The position would be modelled after the existing Deputy Commissioner for Women. The Correctional Investigator of Canada said that there is a need for leadership as there are currently several individuals responsible for Indigenous offenders, but none are directly accountable for outcomes.[276]

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[270] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0925 (Hazel Miron, Senior Investigator, Office of the Correctional Investigator of Canada).

[271] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1130 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[272] Ibid., 1130 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[273] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1600 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[274] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1710 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[275] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0855 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[276] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550, 1555 and 1615 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

1. Oversight of Correctional Service Canada

The Committee heard from representatives of both the Office of the Correctional Investigator and the Office of the Auditor General, both of whom have conducted recent reviews of CSC.

Some witnesses stressed the need for additional oversight of CSC, particularly with regards to the use of segregation.[277] For instance, Savannah Gentile told the Committee that "CSC has a track record of failing or refusing to implement recommendations or to correct itself accordingly and cannot be left without this oversight."[278] As well, the Honourable Kim Pate, Senator, suggested that the House of Commons Standing Committee on Public Safety and National Security conduct joint oversight reviews of Correctional Service Canada on an annual basis.[279]

Recommendation 43

That the Government of Canada immediately appoint a deputy commissioner for Indigenous offenders, and consider the future appointment of a deputy commissioner with specific responsibility for the oversight of Indigenous women in federal correctional institutions.

a. The Office of the Correctional Investigator

The Office of the Correctional Investigator "contributes to safe, lawful and humane corrections through independent oversight of Correctional Service Canada by providing accessible, impartial and timely investigation of individual and systemic concerns."[280] The Office of the Correctional Investigator supports the ombudsperson for federally sentenced offenders, the Correctional Investigator of Canada, as mandated by the *Corrections and Conditional Release Act*(CCRA). In 2016-2017, the Office of the Correctional Investigator:

- received 6,768 complaints from offenders;

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[277] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1545 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1555 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[278] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1545 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[279] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

[280] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

- reviewed 1,436 cases involving the use of force;
- reviewed 119 cases involving deaths in custody or serious bodily injury; and
- had 22,282 toll-free phone contacts for a total of 1,639 hours on the toll-free line.[281]

In a written brief, the Office of the Correctional Investigator indicated that the two most common areas of concerns for federally sentenced women are conditions of confinement and health care.[282]

A representative from the Office of the Correctional Investigator told the Committee that only female investigators are assigned to women's institutions and that all investigators "are fully trained in terms of cultural sensitivity and how to handle concerns that are much more prevalent in women's institutions."[283]

Four recommendations concerning women in federal correctional facilities were included in the 2016–2017 Annual Report of the Office of the Correctional Investigator.[284] The Correctional Investigator recommended:

- CSC's transferring of "mentally ill women in the Pacific Region to the all-male Regional Treatment Centre be absolutely and explicitly prohibited. Women requiring mental health treatment should be transferred to the female unit at the Regional Psychiatric Centre (RPC) in Saskatoon, or, preferably, to a local external community psychiatric hospital as required."
- CSC "issue a Request for Proposal to fund or expand community bed treatment capacity to accommodate up to 12 federally sentenced women requiring an intensive level of mental health intervention, care and supervision."

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[281] Ibid.

[282] Ibid.

[283] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1605 (Marie-France Kingsley, Acting Executive Director, Office of the Correctional Investigator of Canada).

[284] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2016–2017*, 2017, pp. 70–71.

- CSC's "level system for maximum security women be rescinded. Without procedural safeguards and defined review dates, movement levels are arbitrary as they exist outside the law. Security requirements should be assessed on a case-by-case basis as per the principles outlined in the *Corrections and Conditional Release Act*."

- CSC "expand capacity of the Structured Living Environments to allow for women with mental health needs to be integrated and accommodated in more appropriate and therapeutic settings. The Secure Units should be limited to separating women who would otherwise normally be placed in segregation."

One recommendation on Indigenous offenders in federal correctional facilities was also included in the 2016–2017 Annual Report.[285] The Correctional Investigator recommended:

- CSC "review its community release strategy for Indigenous offenders with a view to:
    - i. increase the number of Section 81 agreements to include community accommodation options for the care and custody of medium security inmates;
    - ii. address discrepancies in funding arrangements between CSC and Aboriginal-managed Healing Lodge facilities; and
    - iii. maximize community interest and engagement in release planning for Indigenous offenders at the earliest opportunity."

b. The Office of the Auditor General

The Office of the Auditor General (OAG) "conduct[s] independent audits and studies that provide objective information, advice, and assurance to Parliament, territorial legislatures, boards of crown corporations, government, and Canadians."[286] The OAG has released two recent reports evaluating CSC's treatment of Indigenous offenders.

In *Preparing Indigenous Offenders for Release – Correctional Service Canada*, Report 3 in Reports of the Auditor General of Canada – Fall 2016, the OAG examined whether CSC

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[285] Ibid., pp. 70–71.

[286] Office of the Auditor General of Canada, "Who We Are", *The Office of the Auditor General of Canada*.

"provided correctional interventions in a timely manner to Indigenous offenders to assist with their successful reintegration into the community."[287] The report stated that CSC had designed programs for both male and female Indigenous offenders, but it contained little evaluation of the correctional programs specific to Indigenous women.[288]

In *Preparing Women Offenders for Release – Correctional Service Canada*, Report 5 in Reports of the Auditor General of Canada – Fall 2017, the OAG examined whether CSC "assigned and delivered correctional programs, interventions, and mental health services to women offenders in federal custody – including Indigenous women offenders – that responded appropriately to their unique needs and helped them successfully reintegrate into the community."[289] The report concluded:

> While Correctional Service Canada provided women offenders with correctional programs, it did not do so in a manner that adequately supported their timely and successful reintegration into the community. **Correctional Service Canada had not implemented an initial security classification or appropriate program referral tools for women offenders** [emphasis added]. It had also not assessed the effectiveness of correctional programs in addressing the risk factors related to reoffending, such as substance misuse. As well, Correctional Service Canada had not determined the type or level of resources needed for women offenders with mental health issues and did not have a system in place to monitor their access to treatment. Despite a reduction in the use of segregation over the past three fiscal years, Correctional Service Canada continued to place some women offenders with serious mental illness in segregation.[290]

B. Security Level Classification of Indigenous Women

Under section 30 of the *Corrections and Conditional Release Act* (CCRA), "the Service shall assign a security classification of maximum, medium or minimum to each inmate."[291] The classification of prisoners is determined according to three criteria: escape risk, risk to public safety and the degree of supervision and control required within the penitentiary, known as the institutional adjustment rating.[292] Most federal correctional facilities are multi-level institutions, providing facilities for inmates at all security levels, while other facilities are designed for only certain security levels.[293]

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[287] Office of the Auditor General of Canada, *Preparing Indigenous Offenders for Release – Correctional Service Canada*, Report 3 in *Reports of the Auditor General of Canada – Fall 2016*, 2016.

[288] Ibid., para. 3.8.

[289] Office of the Auditor General of Canada, *Preparing Women Offenders for Release–Correctional Service Canada*, Report 5 in *Reports of the Auditor General of Canada – Fall 2017*, 2017.

[290] Ibid., para. 5.122.

[291] Department of Justice, *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

[292] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); Correctional Service Canada, *Security Classification and Penitentiary Placement*.

According to the Office of the Correctional Investigator, women in maximum-security facilities are subject to a unique sub-classification system that manages their movements when they are outside the security unit, for instance, to access services or health care.[294]

The Committee heard that CSC's classification tool to assign security classifications to female offenders was "designed over 25 years ago based on a sample population of male offenders."[295] According to the Auditor General of Canada, it is problematic that the classification tool "was designed to assess men, not women, and it didn't consider the unique needs of Indigenous women offenders."[296] As a result, evidence suggests that "some women offenders were held at a higher security level than necessary."[297]

The Correctional Investigator of Canada suggested that CSC's goal should be "good case management," which enables "offenders to take programs to address their needs, to reduce their risk of reoffending, and to be cascaded from the highest security to the lowest security and then back into the community."[298] However, according to the Correctional Investigator of Canada, this management "isn't being done as rigorously as it should be."[299]

The Honourable Kim Pate, Senator, told the Committee that CSC hired Dr. Moira Law in 2004 to examine the possible development of a new classification scheme for women. Senator Pate explained that Dr. Moira Law, in her final report, recommended that all female prisoners initially be assigned a minimum-security level and that this recommendation was not implemented by CSC.[300]

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[293] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1555 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada).

[294] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2016–2017*, 2017, p. 60.

[295] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1155 (Carol McCalla, Principal, Office of the Auditor General).

[296] Ibid., 1145 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[297] Ibid.

[298] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0910 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[299] Ibid.

[300] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

1. Reasons for Indigenous Women's Over-representation at the Maximum-Security Level

Women assigned a maximum-security classification represent 11% of the overall federally sentenced female population. However, within the maximum-security classification, Indigenous women make up 50% of inmates.[301] As well, women with mental health problems and illnesses – many of whom are Indigenous – are more likely to be placed in maximum-security facilities.[302]

According to the Quebec Native Women Inc., the realities of Indigenous women's lives, such as "intergenerational trauma, alcoholism, violence and abuse, lower education levels, job insecurity, and a history of depression and/or attempted suicide, are associated with a higher risk level," which increases the security classification.[303] Other factors contributing to a higher security classification include poverty, addiction and mental health problems and illnesses, which are higher among Indigenous women than they are in non-Indigenous women.[304] A number of witnesses recommended that a prisoner's level of trauma or mental health problems and illnesses should be taken into consideration when assigning a security level to an inmate, in order to ensure that the inmate has access to programs and services based on needs.[305]

The classification system's institutional adjustment rating determines how willing and able prisoners are to adapt and comply within the correctional system.[306] The Committee heard that many Indigenous women enter the correctional system with "a distrust of authority" because of prior negative experiences with state authorities (such as police officers or child protection officers) and a long-held mistrust of authority

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[301] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2016–2017*, 2017, p. 59.

[302] Ibid., p. 62; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1540 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[303] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[304] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.).

[305] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1155 (Carol McCalla, Principal, Office of the Auditor General).

[306] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

(because of discriminatory practices and policies upheld by state authorities, such as the apprehension of children to bring them to residential school). As a result, Indigenous women are often deemed by CSC staff to be "uncooperative, unmanageable, risky, [and] challenging," and are assigned a higher risk classification.[307] Jennifer Metcalfe explained:

> It would be next to impossible to have a low rating for institutional adjustment in a security-driven prison environment that perpetuates violence and does not achieve the foundation of trust and respect that is necessary for healing.[308]

As explained previously, Gladue reports can also have an impact on the security classification of an Indigenous inmate. For instance, Debra Parkes told the Committee:

> Gladue factors—and these are social history factors—are, in effect, used against [I]ndigenous women in the context of risk assessment decisions at all levels of the criminal justice system—bail, sentencing, correctional placement and planning, security classification, parole, and other correctional decision-making.[309]

The Committee was informed by a CSC representative that CSC is "in the midst of reviewing its security classification process and implementing a new referral tool to improve how we assign women offenders to programs."310 Witnesses demanded that CSC:

- conduct an immediate review of its classification scale;[311]
- immediately reassess the classification of all Indigenous women currently classified at the maximum-security level, using a "gender-responsive classification tool,"[312]
- change its policy of not allowing women with maximum-security classifications to be incarcerated at healing lodges, and facilitate healing

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[307] Ibid., 1110 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[308] Ibid., 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[309] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1635 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[310] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1145 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[311] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[312] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

lodge access by women with medium- and maximum-security classifications;[313]

- redesign its classification tool with the goal of being culturally sensitive to the reality of Indigenous peoples' backgrounds and lives;[314] and
- rescind the sub-classification system for women given maximum-security classifications.[315]

Kathryn Ferreira, Executive Director of the Queen's Prison Law Clinic, disagreed with the CSC policy that an inmate serving time for murder is automatically placed in a maximum-security facility for a minimum of two years. She recommended that in cases of murder, context should be examined as female offenders – particularly Indigenous women – may have committed violence in response to violence against themselves, their children, or other individuals. While murder is a very serious offence, the risk to society for an offender committing violence in such a context is very small.[316] The Honourable Kim Pate, Senator explained that, in 2004 and 2005, CSC looked at the classification of women offenders. Senator Pate told the Committee that Dr. Moira Law recommended "to start all women prisoners at minimum security, which she determined after she had interviewed staff, prisoners, and outside individuals, including the correctional investigator, it was never implemented."[317]

The Committee heard that Indigenous women sometimes accumulate additional charges while incarcerated because of their "resistance to the institutional order or inability to adjust or cope," which can add years to their original sentence.[318] According to Jennifer Metcalfe Indigenous women who have been declared dangerous offenders generally have received this designation because of violent offences committed while they were incarcerated.[319]

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[313] Ibid.; Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[314] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

[315] Ibid.

[316] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1550 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[317] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

[318] Vicki Chartrand, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[319] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

2. Conditions and Outcomes of Maximum-Security Classification for Indigenous Women

A number of witnesses said that being assigned to a maximum-security classification has a negative effect on female inmates' living conditions and well-being, access to programming, and post-incarceration outcomes. Female inmates assigned a maximum-security classification have more restricted access to CSC programming, including culturally sensitive programming, than are other inmates[320] which some witnesses argued was counterproductive and harmful to reintegration efforts.[321] According to Kathryn Ferreira women in maximum-security facilities are:

> Isolated in segregated living units, called secure units, and are not eligible to participate in work release programs, community release programs, or other supportive programming designed to enhance their chances of community integration.[322]

Furthermore, the Committee was informed that Indigenous women with mental health problems and illnesses – diagnosed or undiagnosed – are "more likely to be placed in maximum security because of institutional adjustment issues, not because of public safety."[323] The Correctional Investigator of Canada said that having women with severe mental health problems and illnesses in maximum security units is very disruptive and upsetting for the other female prisoners.[324]

The Committee was informed that healing lodges, as provided for in section 81 of the *Corrections and Conditional Release Act*, are only available to female inmates who have received a minimum-security classification, which is a small number of Indigenous women.[325] As a result, Indigenous women who have complex needs and would benefit from the program are not able to participate.[326]

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[320] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1555 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[321] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 22 December 2017.

[322] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1535 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[323] Ibid.

[324] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1545 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

Indigenous women placed in maximum-security do not have access to the same programs as minimum- and medium-security inmates,[327] which has an impact "on whether or not they are deemed to be good candidates for parole."[328] Furthermore, Indigenous women, regardless of their security level classification, are less likely to receive parole because of limited access to necessary programming, and will instead have to wait for statutory release.[329]

Recommendation 44

That the Government of Canada classify, in its initial assessment and whenever possible, Indigenous female offenders at a medium security level or lower in order to provide them with appropriate treatment and rehabilitation services, and ensure, in cases where a maximum security is needed, that Indigenous female offenders have access to culturally appropriate services.

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[325] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[326] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[327] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1540 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1535 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.).

[328] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1605 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[329] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1145 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General); Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017; Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1710 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

Recommendation 45

That the Government of Canada review and update Correctional Service Canada's assessment qualifiers for assigning incarceration security classification levels to Indigenous female offenders, including, but not limited to, conducting a gender-based analysis plus on their security levels classification tool; and request that the Correctional Investigator of Canada conduct an evaluation of the new classification tool after its implementation.

Recommendation 46

That the Government of Canada, in partnership with Indigenous peoples and communities, "[r]edesign its classification system for women in the federal prison system to ensure their access to work and community [programs] as well as to [A]boriginal healing lodges," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

C. Segregation and Solitary Confinement

The Committee heard that Indigenous women are more likely to be "involuntarily segregated and face longer segregation placements than non-Indigenous women."[330] The Auditor General of Canada noted that around half of the female offenders placed in segregation are Indigenous women.[331]

The CCRA allows for two types of segregation: 1) disciplinary segregation: in the case of a serious disciplinary offence, the inmate is placed in segregation as punishment, for a maximum of 30 days; and 2) administrative segregation: an inmate is placed in segregation because CSC staff deems the inmate to be a risk to themselves, to others, or to the institution itself.[332] Some witnesses argued that no matter the organizational names used for these practices by CSC, segregation is analogous to solitary confinement.[333] There was concern expressed that there is no "independent review of these segregation placements at the moment" and that "CSC operates in a cloak of secrecy."[334]

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[330] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the*** *House of Commons Standing Committee on the Status of Women*, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1530 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[331] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[332] *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

A number of witnesses described the severe psychological and emotional harms and negative health effects of segregation and solitary confinement on prisoners. Segregation can lead to deteriorating mental well-being, aggravate existing mental illnesses, and increase the risk of self-injury and suicide.[335] Witnesses indicated that the United Nations deems solitary confinement for a period longer than 15 days to be torture.[336] Marie-Claude Landry said:

> Those [I]ndigenous women, many of whom are victims of abuse and suffer from depression, post-traumatic shock, and so on, find themselves isolated and deprived of all human contact. This triggers a destructive cycle that the correctional service seems unable to stop for the moment. This cycle often ends tragically and sometimes even has fatal consequences.[337]

Savannah Gentile said that CSC acknowledges the harm of segregation; she quoted from CSC's 2006 *Ten-Year Status Report on Women's Corrections*, which stated:

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[333] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1725 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1140 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[334] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1600 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[335] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018.

[336] Ibid.; Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1530 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[337] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1650 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

> Segregation tends to have a significant impact on women offenders. Generally speaking, women are linked to each other through relationships and the isolation of segregation, combined with the crisis or stress the woman is experiencing, can take its toll....[338]

Some witnesses raised concerns about the use of segregation for female inmates with mental health problems and illnesses. The Correctional Investigator of Canada said that CSC "uses segregation cells to try to manage the offenders who have mental health issues. This is not an adequate environment to manage this type of person."[339]

A representative from CSC told the Committee that CSC "changed its policies this past year to restrict the use of administrative segregation for offenders with serious mental illness with significant impairment."[340] The Auditor General of Canada said that CSC has "agreed to no longer place women offenders at risk of self-injury or suicide in cells on the segregation range."[341] While CSC guidelines state that segregation should not be used for prisoners who are actively self-harming, it was noted that "segregation itself is often the cause of escalating self-harm behaviours."[342]

While the Auditor General of Canada noted that there has been a reduction in the total number of offenders segregated each year, 20% of segregation placements were for longer than 15 days, "the limit recommended by human rights groups."[343] Other witnesses noted that while segregation placements may be declining, CSC may apply the same restrictions as segregation under a different name.[344] For instance, in a written brief, the Native Women's Association of Canada said:

> Indigenous women continue to experience lengthy periods of solitary confinement, defined instead as modified movement, clinical seclusion, and structured or enhanced supervision.

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[338] FEWO, Evidence, 1st Session, 42nd Parliament, 1 February 2018, 1540 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[339] FEWO, Evidence, 1st Session, 42nd Parliament, 5 December 2017, 1220 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[340] FEWO, Evidence, 1st Session, 42nd Parliament, 28 November 2017, 1145 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[341] FEWO, Evidence, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[342] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[343] FEWO, Evidence, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[344] FEWO, Evidence, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

> This shift in vocabulary does not necessarily mean a change to the conditions of confinement and women may still spend up to 23 hours per day in isolation.[345]

Many witnesses suggested a number of changes to CSC's segregation placement policies. Some witnesses recommended that the federal government establish an independent adjudicator or a system of independent review of all segregation placements.[346] Kassandra Churcher also suggested that there be community-based alternatives to segregation for women who cannot "deal with the reality of … prison life."[347]

The Correctional Investigator of Canada said that:

> I sincerely believe that in a women's facility, you could de facto abolish the practice altogether, if you used those secure units with the same sort of rigour in making it a last resort and using those secure units to separate, and not isolate, the few cases that you need to deal with for a short period of time.[348]

He recommended that legislation be established to prohibit the placement of mentally ill prisoners in CSC segregation.[349] He also recommended that the Secure Units should be limited to housing women who would otherwise be placed in segregation.[350]

Other witnesses called for the abolishment of the practice of solitary confinement and segregation, by any name,[351] altogether, or recommended the end of segregation for individuals with mental health problems and illnesses, for youth, for administrative and discipline reasons and for medical reasons.[352]

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[345] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[346] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1600 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[347] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1600 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies).

[348] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1610 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[349] Ibid.

[350] Ibid., 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

[351] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1625 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

Recommendation 47

That the Government of Canada end the practice of solitary confinement and segregation in its many forms, including, but not limited to, administrative segregation, health-related segregation, and punitive segregation in federal correctional institutions for women.

Recommendation 48

That the Government of Canada immediately "[a]bolish the practice of solitary confinement, and effectively limit the use of administrative or disciplinary segregation as a measure of last resort for as short a time as possible and avoid such measure for women with serious mental illness," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women and the Correctional Investigator of Canada in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

Recommendation 49

That the Government of Canada immediately implement legislation requiring judicial oversight regarding the use of administrative segregation until the practice of solitary confinement and segregation in its many forms, including, but not limited to, administrative segregation, health-related segregation, and punitive segregation in federally administered women's correctional facilities, is abolished.

Recommendation 50

That the Government of Canada limit the use of secure units in federal correctional institutions for women.

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[352] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

D. Access to Programming

The Committee heard that programs for inmates should be evidence-based, accessible and long-term, not "band-aid" solutions.[353] As well, programs should focus on maintaining and improving basic life skills, enabling women to function in their communities and to take care of themselves post-release.[354]

Some witnesses explained that there are a number of barriers to Indigenous female inmates' access to programming. To begin, the Committee heard that there is a lack of timely access for inmates to programs and services; the 2016 OAG audit on Indigenous offenders indicated that it was taking up to five months to start necessary programming.[355] The lack of timely access affects parole dates, particularly among female offenders, most of whom are serving short-term sentences and could be eligible for release in the first year of their sentences. Michael Ferguson, Auditor General of Canada, explained:

> More than three-quarters of [I]ndigenous women offenders hadn't completed the rehabilitation programs they needed when they were first eligible for parole because they didn't get timely access to them. As a result, they had less time to benefit from a gradual and structured release into the community, which supports their successful reintegration.[356]

In addition, CSC's tool that is used to assign programming is not designed for that purpose; rather, it is the same tool used for security level classification and it was designed for men. Evidence indicates that the tool assigns female offenders to rehabilitation programs that are not appropriate or that they do not need.[357] Carol McCalla, Principal of the Office of the Auditor General, said that CSC has conducted a pilot project on a new tool to assign programs to female offenders; these tests "found that [the tool] will result in significantly fewer women being assigned to its moderate-intensity correctional program, but also many more, twice as many, will be assigned to high-intensity correctional programs."[358]

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[353] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1715 (Ruth ScalpLock, As an individual).

[354] Ibid., 1700 (Ruth ScalpLock, As an individual).

[355] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1155 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[356] Ibid., 1145 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[357] Ibid.

[358] Ibid., 1205 (Carol McCalla, Principal, Office of the Auditor General).

As well, a maximum-security classification severely limits Indigenous women's access to programming; this is particularly problematic as 50% of female offenders with maximum-security classifications are Indigenous women.[359]

The Committee was told that a serious disincentive to accessing programming is that female inmates are regularly strip searched when they return to prison after participating in programs that are often deemed necessary for their correctional plans.[360] Savannah Gentile told the Committee:

> Certain prisons are engaging in mandatory strip-searching after all ... private family visits ... and all escorted temporary absences out to programs, to church, and to work releases. Essentially, women are engaging in programming that they must engage in for their correctional plan to move toward successful release and, as a result, when they are returned to the prison, they are being strip-searched. That's happening on a mandatory basis at Grand Valley prison for women. We've been trying to challenge that since September at least, and definitely before then. The same issue is happening at [the Edmonton Institution for Women], absolutely. I spoke with one woman who, because of the level system, was strip-searched every time she returned after being brought off the max unit to engage in programming that was dealing with trauma or the issues that led to her incarceration in the first place[361]

Odessa Marchand praised the dialectical behaviour therapy program, which taught her to recognize her feelings and prepare for real-life situations; she suggested the program should be mandatory for all inmates.[362]

Recommendation 51

That the Government of Canada review conditions whereby Indigenous female offenders are unable to attend their parole hearings because access to programming in the correctional facility was not made available to them, and ensure that all options are outlined for Indigenous female offenders in the event programming is not able to be completed through no fault of the their own.

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[359] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2016–2017*, 2017, p. 59.

[360] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1610 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[361] Ibid.

[362] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Odessa Marchand, As an individual).

Recommendation 52

That the Government of Canada, immediately "ensure that Indigenous offenders have timely access to correctional programs – including culturally specific programs – according to their needs and preferences, to support their successful reintegration," as called for in the 2016 Fall Reports of the Office of the Auditor General entitled *Report 3 – Preparing Indigenous Offenders for Release—Correctional Service Canada.*

1. Culturally Sensitive Programming

The Committee heard that it is essential for the well-being and healing of Indigenous offenders that they have access to culturally appropriate programs and services within correctional institutions.[363] According to CSC, "staff that work with women offenders receive women-centred training" and "this helps them to be sensitive to issues that face federally sentenced women and be responsive to their needs."[364] As well, correctional programs address the diverse needs of female offenders by considering: "their social, economic, and cultural situation in society; the importance of relationships in their lives; their unique pathways into crime; and the fact that they are more likely than men to experience trauma, victimization, mental health problems, low self-esteem, and have parenting responsibilities."[365]

In its work with Indigenous offenders, CSC states that its aim is to integrate Indigenous views of justice and reconciliation. CSC is guided by the Aboriginal Continuum of Care, which outlines culturally appropriate interventions throughout an Indigenous offender's sentence and was developed in consultation with Indigenous stakeholders. CSC also invites the participation of Indigenous Elders and spiritual advisors through counselling, ceremonies and teachings for Indigenous offenders.[366]

A representative from CSC shared information with the Committee on some initiatives implemented over the last decade with regards to Indigenous people in the correctional system. For instance:

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[363] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1550 (Mary-Luisa Kapelus, Director General, Strategic Policy, Planning and Information, First Nations and Inuit Health Branch, Department of Indigenous Services, Department of Indian Affairs and Northern).

[364] Correctional Service Canada, *Women offenders*.

[365] Ibid.

[366] Correctional Service Canada, *Indigenous corrections*.

- In 1997, CSC developed and implemented the National Strategy on Aboriginal Corrections to strengthen Indigenous programming, enhance the role of Indigenous communities in correctional operations and practices, and increase the recruitment of Indigenous people.[367]
- In 2001, CSC received additional funding and explored the possible expansion of healing lodges. CSC then determined that "it was essential that spiritual and cultural interventions were available within all institutions, at all security levels, so that offenders would be better prepared for a healing lodge environment."[368]
- In 2003, CSC developed the Aboriginal Corrections Continuum of Care (Continuum of Care) for Indigenous offenders, with the guidance of Elders and Indigenous organizations. The Continuum of Care "provides a framework for delivering culturally and spiritually responsive services and interventions" to Indigenous offenders.[369]
    - The Continuum of Care includes a Pathways Initiative, an Elder-driven intensive healing initiative that provides a "path of healing within institutions for offenders who demonstrate a commitment to follow traditional healing as a way of life."[370]
- In 2006, CSC developed the Strategic Plan for Aboriginal Offenders, which "established a renewed policy framework, accountability at all levels of the organization, and an expanded aboriginal continuum of care." It also "increased programs, services, and interventions as well as providing a human resource strategy and training to address systemic barriers over time."[371]
- In 2010, CSC implemented the Aboriginal Women Offender Correctional Programs (AWOCP), with the goal of offering "holistic, culturally

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[367] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0845 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[368] Ibid., 0850 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[369] *Ibid.*

[370] Correctional Service Canada, *Commissioner's Directives: Establishment and Operation of Pathways Initiatives*.

[371] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0850 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

  responsive, women-centred program model that enhances accessibility and participation and facilitated treatment gains and offender reintegration."[372]

    - According to a 2017 assessment of AWOCP, a representative from CSC said that "results suggested that AWOCP is successful in improving the women's skills and attitudes and significantly decreases their rates of return to custody."[373]

- In 2013, CSC implemented the Sivuppiak Action Plan for Inuit Offenders to "better respond to the needs of Inuit offenders." As well, CSC expanded the Pathways Initiative[374] to better meet the rehabilitation and reintegration needs of Indigenous offenders and to strengthen "the delivery of culturally responsive interventions to the [I]ndigenous women offender population."[375]

While CSC highlighted its culturally sensitive programs available to Indigenous women, some witnesses were critical of the availability and quality of these programs. A number of witnesses stated that Indigenous offenders do not have suitable access to cultural programming while in prison, particularly those in maximum-security units.[376] Virginia Lomax, Legal Counsel, Native Women's Association of Canada, told the Committed that "[a]s much as some of these programs are targeted toward [I]ndigenous women, our understanding is that the differences between [I]ndigenous women have not been recognized and the focus on reintegration into the community quite simply isn't there."[377]

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[372] Correctional Service Canada, *Assessment of the Aboriginal Women Offender Correctional Programs (AWOCP): Outcomes*; FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1530 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[373] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1530 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[374] The Pathways Initiative "provides a path of healing within institutions for offenders who demonstrate a commitment to follow traditional healing as a way of life, 24 hours a day." See: Correctional Service Canada, *Establishment and Operation of Pathways Initiatives*.

[375] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0850 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[376] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[377] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1605 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

Witnesses also disagreed with CSC's assertion that its approach to working with Indigenous women is holistic and women-centred.[378] For instance, Jennifer Metcalfe stated that "there's been a real decline in the women-centric approach from the beginning of [the Fraser Valley Institution for Women] and the other women's prisons" and that "[t]he women I spoke with thought there were not enough [I]ndigenous programs at [the Fraser Valley Institution for Women], especially in the maximum security units. There's only one [E]lder who is stretched too thin."[379] The Auditor General of Canada told the Committee that there are "a number of places where [CSC] haven't yet succeeded in" providing culturally appropriate services to Indigenous female offenders.[380]

Witnesses asked that CSC review its culturally sensitive programming to ensure that it:

- provides trauma-informed care and focuses on healing;[381]
- addresses the trauma and abuse linked to residential schools;[382]
- focuses on reconciling relationships that have been damaged through criminal and unhealthy behaviours;[383]
- teaches traditional spiritual elements, including for example, the use of the medicine wheel;[384]

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[378] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1245 (Melanie Omeniho, President, Women of the Métis Nation); 1245 (Felice Yuen, Associate Professor, Concordia University, As an Individual) and 1245 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[379] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 and 1130 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[380] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1205 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[381] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 29 November 2017; Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[382] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[383] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[384] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Ruth ScalpLock, As an individual).

- provides the option for Indigenous inmates to learn their own languages and cultural practices;[385] and

- emphasizes accountability among Indigenous inmates, encouraging them to take responsibility for their actions and to heal.[386]

a. Benefits of Culturally Sensitive Programming

A number of witnesses said that Indigenous female inmates benefit from culturally sensitive programming, as it improves their ability to heal and rehabilitate. By participating in programs with other Indigenous women, led by Indigenous cultural and healing principles, Indigenous female inmates experience "inclusivity, community, respect, and support."[387] The Native Courtworker and Counselling Association of British Columbia explained that "Indigenous people rely on access to their culture while incarcerated. For many, this is their only way to ground themselves and stay connected physically, emotionally, mentally and spiritually."[388]

The Committee heard that for some Indigenous women, their first connection with their Indigenous culture was in a federal correctional institution.[389] Odessa Marchand said "I didn't grow up with my culture and when I went into federal prison, I found my culture."[390]

The Committee was informed that CSC collaborates with Indigenous community groups and organizations to design and deliver programs and services to Indigenous inmates. Felice Yuen recommended that CSC increase the number of partnerships with Indigenous organizations, with the goal of having those organizations offer programs and services to Indigenous female inmates.[391] The benefits of partnering with Indigenous organizations were highlighted by the Native Counselling Services of Alberta, who partners with CSC:

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[385] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[386] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[387] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Chas Coutlee, As an individual).

[388] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[389] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Odessa Marchand, As an individual).

[390] Ibid., 1655 (Odessa Marchand, As an individual).

[391] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

> [The Native Counselling Services of Alberta] approach to providing correctional services is informed by two decades of research on the effects of colonization on [I]ndigenous individuals, families, and community, and on the Cree teachings of Wahkohtowin, which is a doctrine of relationships as taught to us by our [E]lders in our territory.[392]

In particular, the Committee heard that additional funding should be provided to widen the availability of the Spirit of the Warrior Program. Claire Carefoot explained the effectiveness of the program:

> It gets into, how do I say, the guts of the pain, the colonialism, the trauma that these women have suffered, the generational trauma. This program goes to the heart of that. It really brings out the pain in these women. They talk about it. They get it out. It's a remarkable program. You wouldn't believe how these women come out of it. It's a long and very in-depth program. The [E]lders take them into it, and it's with culture and spiritualism throughout the whole 10 to 12 weeks. It's a long time, but it's a remarkable program.[393]

b. Challenges in Implementing Culturally Sensitive Programming

While a number of witnesses spoke in favour of culturally sensitive programming, other witnesses expressed their concerns with such programming. The Committee heard that some Indigenous female inmates felt that the "cultural programming available in prison represents yet another form of colonialism"[394] because the programs are largely developed and designed by the Canadian government and administered by non-Indigenous staff.[395] The programs are established within a "colonial structure"[396] and a "framework that reflects western approaches to rehabilitation."[397]

Furthermore, the Committee was told that the programs tend to present a "homogenized view of Indigenous cultures, failing to recognize that teachings and practices relevant to some communities may be non-existent in others."[398] The Committee heard that CSC should design programs that recognize the differences between First Nations, Métis, and Inuit women, as well as the distinct identities within these groups.[399] Virginia Lomax explained that "[w]hat might be protocol, a teaching, or culture in Treaty No. 6 territory, where most of these healing lodges are, would quite simply not be relevant to Inuit, Anishinaabeg, or Maliseet attendees."[400] Furthermore, Jacinthe Poulin said that:

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[392] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[393] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1715 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

[394] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018.

[395] Ibid.; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1550 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[396] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0850 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[397] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

> Our experience on the ground shows that [I]ndigenous communities and [I]ndigenous people in urban areas are divided on traditional healing. Not all [I]ndigenous women adhere to traditional healing and may not be comfortable with programs for the general population. So there is a lack of services for those women. Cultural reappropriation is not the solution for all women.[401]

Such changes would improve the relevance and effectiveness of programming; Indigenous offenders would be more receptive as they would not "simply fit into CSC's stereotype of who an [I]ndigenous woman should be."[402] Rajwant Mangat said that there is a need for:

> A fundamental and radical shift in how we think about incarcerated [I]ndigenous women. We have to stop thinking about them as bundles of risk or as behaviours to manage. We have to think about them as human beings with this complex history that comes with them. They have multi-faceted, individualized needs. We can't try cookie-cutter pan-[I]ndigenous approaches to addressing those needs.[403]

For instance, Pauktuutit Inuit Women of Canada described the specific elements that could connect female Inuit prisoners to their culture:

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[398] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018.

[399] Ibid.; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1550 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[400] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1550 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[401] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.).

[402] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[403] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1110 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

> Enhance [the] cultural connections for [Inuit] women in prison with increased use of Inuit visual images and materials, cultural programs and supports such as sewing circles for Inuit women using traditional materials the extent possible, provide access to Inuktitut print materials and other resources such as radio broadcasts in Inuktitut to support connections to families, communities and Inuit culture generally.[404]

There are a number of practical operational challenges to implementing culturally sensitive programs. To begin, in regional institutions where there are a small number of Indigenous offenders, CSC runs culturally sensitive programming only when there are enough offenders ready to start the program. For instance, in Atlantic Canada, there may be only two or three Indigenous women who are seeking access to such programs, which therefore may not be available because of the low number of potential participants.[405]

While CSC is flexible about the number of women required to start a program, Indigenous women may opt for mainstream programming so that they can access it in a timelier manner.[406] As well, there may be wait-lists for access to culturally sensitive Indigenous programming.[407] The delay in access to culturally sensitive programs forces many Indigenous women to pursue mainstream programs alongside the general population, because a delay in completing programming could delay their access to parole.[408]

A final operational challenge is CSC's ability to effectively evaluate culturally sensitive programming. The Correctional Investigator of Canada told the Committee:

> The Correctional Service has still not developed tools to assess how culturally specific interventions for [I]ndigenous offenders, such as [E]lder services, healing lodges, Pathways, and partnership with community groups and organizations, contribute to safe and successful reintegration.[409]

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[404] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[405] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1215 (Carol McCalla, Principal, Office of the Auditor General).

[406] Ibid., 1210 (Carol McCalla, Principal, Office of the Auditor General); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1645 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1210 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[407] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0850 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[408] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1605 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[409] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0850 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

Recommendation 53

That the Government of Canada partner with Indigenous peoples and organizations to offer programs and services for Indigenous female inmates that are culturally relevant, culture specific and administered within Correctional Service Canada institutions.

Recommendation 54

That the Government of Canada provide resources to inform Indigenous female offenders on all support mechanisms and tools available to them, such as Gladue writers and sections 29, 81, and 84 of the *Corrections and Conditional Release Act*.

Recommendation 55

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused," as directed by call to action #36 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 56

That the Government of Canada ensure that federally incarcerated Indigenous women who wish to participate in the Pathways Initiative have timely access to the Initiative and that the Initiative's programming is culturally appropriate for incarcerated First Nations, Inuit and Métis women; and develop, in partnership with Indigenous peoples and communities, tools to assess how the Pathways Initiative contributes to the reintegration of Indigenous women in their communities.

c. Participation of Indigenous Elders or Spiritual Advisors

The Committee heard that female inmates in federal prisons and in healing lodges can receive support provided by Elders, who can offer guidance, act as role models, and deliver cultural and spiritual programs.[410] According to a representative from CSC: "We currently have over 140 first nations, Métis, and Inuit [E]lders across the country providing spiritual counselling, ceremonies, and traditional teachings to [I]ndigenous offenders."[411]

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[410] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1540 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada).

According to the Commissioner's Directive on Aboriginal Offenders, in effect since 2013, CSC's Regional Administrator of Aboriginal Initiatives will: "consult with Aboriginal communities, advisory committees and/or Councils of Elders for the purposes of: i. locating Elders/Spiritual Advisors to attend to the spiritual needs of offenders; and ii. entering into contracts for the services of Elders/Spiritual Advisors."[412] The Directive also states that Elders/Spiritual Advisors "are afforded the same status as Chaplains, pursuant to section 83 of the CCRA." The Elders/Spiritual Advisors are to "a. provide counselling, teachings and ceremonial services; b. provide advice to the Institutional Head when required regarding ceremonies, ceremonial objects; and c.as a member of the Case Management Team, participate in case conferences as required."[413]

The Committee was informed that Elders are integral to the spiritual healing and connection with culture of many Indigenous female inmates.[414] Most often, Elders are community members who "know the teachings, know the medicines, know the stories, know the language," and "have years, if not decades, of experience within the community as a spiritual adviser, a medicine healer, maybe a pipe carrier, a sweat lodge runner."[415] Mary Fayant, an Indigenous Elder, said that cultural ceremonies and programs were important for inmates' mental well-being: they "need to have their ceremonies to get grounded again – mentally, physically, spiritually, and emotionally."[416]

Claire Carefoot spoke admiringly of the Elder working at the Buffalo Sage Wellness House facility: "Trust me: I'd much rather talk to a judge or a lawyer than to our [E]lder Vicky, because she is really tough. She is an awesome lady, and she holds the women to a very high set of standards."[417] Chas Coutlee, an Indigenous woman and former inmate, shared her positive experience of working with an Elder:

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[411] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0845 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[412] Correctional Service Canada, Commissioner's Directive on Aboriginal Offenders, 2013.

[413] Ibid.

[414] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1645 (Audra Andrews, Union of Safety and Justice Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Ruth ScalpLock, As an individual).

[415] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0920 (Neal Freeland, As an Individual).

[416] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1650 (Mary Fayant, Elder, As an individual).

[417] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1015 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

> [Elder Holy Cow] believed in me, and I noticed that women who wanted to participate in ceremonies would refrain from drug consumption as a way to be respectful. This is the first time I recognized culture as a powerful and effective tool for recovery.... Elder Holy Cow helped me put a piece back into my healing that I didn't know I was missing. I carried shame for being an [I]ndigenous woman. Elder Holy Cow showed me positive role modelling, and this helped remove my shame.[418]

A number of witnesses expressed various concern with the CSC's process of selecting and working with Elders in correctional facilities and healing lodges. Female inmates often have a long-standing mistrust of authorities, including CSC; as such, because the Elders are on contract with CSC, the inmates may be wary of the Elders.[419] As well, the position of "Elder/Spiritual Advisor," is advertised by CSC as a job; as such, any Indigenous person could be hired by CSC and referred to as an Elder. There was concern that within Indigenous communities, this is not how Elders are traditionally chosen and recognized.[420]

Furthermore, the Committee heard that Elders are experiencing an increasingly heavy burden of CSC paperwork that they are required to complete.[421] Audra Andrews said that "we dishonour [Elders] and undermine their role in tying them to paperwork. They need to be free to work with offenders...."[422] There was also concern that Elders are being requested by CSC authorities to write assessments of female inmates. These assessments could damage the relationship of trust between the Elder and inmates. Felice Yuen explained:

> When I was conducting my research in Grand Valley Institution, I witnessed deep relationships and connections between the women and the spiritual adviser. She was referred to as "Grandmother" by the women in the prison.... A grandmother doesn't take notes; a grandmother doesn't report what you say and do to authorities. As women told me, "Grandmother loves and cares for us", and that is what made a difference for them.[423]

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[418] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Chas Coutlee, As an individual).

[419] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0850 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[420] Ibid., 0920 (Neal Freeland, As an Individual).

[421] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1645 (Audra Andrews, Union of Safety and Justice Employees).

[422] Ibid., 1600 (Audra Andrews, Union of Safety and Justice Employees).

[423] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

Lastly, the Committee was told that there is a need for greater access to Elders in all facilities,[424] as well as in communities post-release, as successful reintegration depends on Indigenous women's ability to access cultural services and supports.[425]

Recommendation 57

That the Government of Canada ensure access to and support from Indigenous Elders is available for all Indigenous female offenders in the federal justice and correctional systems including after conditional release, and that Elders be given an enhanced role and/or participation surrounding parole hearings.

Recommendation 58

That the Government of Canada, in partnership with Indigenous peoples and communities, evaluate and implement changes with the goal of improving the meaningful participation of Elders in programming for Indigenous female inmates.

Recommendation 59

That the Government of Canada ensure Elders employed by Correctional Service Canada are recognized as such by Indigenous communities.

d. Healing Lodges

According to CSC, Indigenous healing lodges are correctional institutions that "use Aboriginal values, traditions and beliefs to design services and programs for offenders."[426] Programs delivered at the healing lodges are accompanied by guidance and support from Elders and Indigenous communities.[427] The facilities aim to incorporate Indigenous concepts of justice and reconciliation and use an approach to corrections that is holistic and spiritual.[428]

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[424] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[425] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1600 (Audra Andrews, Union of Safety and Justice Employees).

[426] Correctional Service Canada, *Correctional Service Canada Healing Lodges*.

[427] Ibid.

[428] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1640 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada); Correctional Service Canada, *Correctional Service Canada Healing Lodges*.

Indigenous healing lodges can operate in two ways: 1) funded and operated by CSC and its staff; and 2) funded by CSC and managed by community partner organizations (according to an agreement with CSC under section 81 of the *Corrections and Conditional Release Act*(CCRA)).[429] CSC manages four Indigenous healing lodges and works with Indigenous communities in the management of five section 81 healing lodges.[430] Healing lodges operated by Indigenous communities under section 81 of the CCRA are examined in greater detail in the upcoming section.

Healing lodges for female offenders are minimum-/medium-security facilities, in contrast to healing lodges for men which are minimum-security only. Non-Indigenous offenders can also reside in a healing lodge, if they choose to follow the cultural and spiritual programming.[431] Women who reside in healing lodges must continue to work on objectives outlined in their correctional plans.[432]

There are two healing lodges for female inmates:

- Okimaw Ohci Healing Lodge, opened in 1995, is a CSC healing lodge located in the Nekaneet First Nations territory in southern Saskatchewan. It contains both single and family residential units, where offenders may have their children stay with them.[433]
- Buffalo Sage Wellness House, opened in 2011, is a section 81 healing lodge located in Edmonton, Alberta, and managed by the Native Counselling Services of Alberta. The facility has recently been expanded to include 28 beds.[434]

The Committee heard that the goal of establishing healing lodges was to "revolutionize how the Canadian corrections system engages [I]ndigenous communities."[435] According to Eric Michael, Executive Director of the Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada:

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[429] Correctional Service Canada, *Correctional Service Canada Healing Lodges*.

[430] Correctional Service Canada, *Facilities & Security*.

[431] Correctional Service Canada, *Correctional Service Canada Healing Lodges*.

[432] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 1005 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[433] Correctional Service Canada, *Correctional Service Canada Healing Lodges*.

[434] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1645 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta); Correctional Service Canada, *Correctional Service Canada Healing Lodges*.

[435] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1640 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

> One of the CSC's key priorities is to provide effective, culturally appropriate interventions and reintegration support for First Nations, Métis, and Inuit offenders. Healing lodges are a fundamental element of delivering on this priority as they provide culturally focused interventions, programming, and services.[436]

The Committee heard that healing lodges – both CSC-operated and community-operated – offer a number of important benefits. Indigenous healing lodges can:

- be less restrictive than prison, and can allow mothers and children to live together;[437]
- assist Indigenous women in learning about their cultural practices, their spirituality, and their language, which is particularly meaningful for offenders who grew up without their culture;[438]
- focus on implementing restorative justice by following Indigenous legal traditions;[439]
- allow offenders to work closely with Indigenous Elders, who provide guidance and support;[440]
- use traditional healing methods to help offenders heal from unaddressed personal and intergenerational trauma;[441] and
- allow offenders to participate in Indigenous ceremonies, which allows for cultural and spiritual renewal.[442]

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[436] Ibid.

[437] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1600 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[438] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1540 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1725 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[439] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1600 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[440] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1725 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[441] Ibid., 1640 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[442] Ibid.

The Committee was informed that the staff at healing lodges – many of whom are Indigenous themselves – serve as good role models for offenders and are more sensitive to the realities of Indigenous offenders.[443] Eric Michael said that in his experience, staff are "passionate correctional professionals" who are "dedicated to the vision of healing."[444]

Healing lodges focus on the successful reintegration of offenders into their communities.[445] Programs are delivered in a context of community interaction and restoring kinship ties, preparing an offender for eventual release.[446] According to a representative from CSC, Indigenous women "who participate in healing lodges have very low rates of reoffending upon release."[447]

A number of witnesses presented some critiques of Indigenous healing lodges. They stated:

- CSC still imposes strict rules on the women residing in healing lodges, and these restrictions seem to be increasing;[448]
- Healing lodges, particularly CSC-managed healing lodges, are run according to a "colonial style of thinking;"[449]
- Healing lodges require additional resources and personnel to improve their effectiveness.[450]

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[443] Ibid.; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[444] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1640 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[445] Ibid.

[446] Ibid.

[447] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1215 (Carol McCalla, Principal, Office of the Auditor General).

[448] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1555 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[449] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0925 (Hazel Miron, Senior Investigator, Office of the Correctional Investigator of Canada).

[450] Ibid., 0905 (Hazel Miron, Senior Investigator, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1655 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

Many female inmates do not have suitable access to healing lodges as there are only two in Canada.[451] There is no access to a healing lodge for women located in the Pacific or Atlantic regions, and in the province of Ontario or Quebec, unless women are willing to be transferred far from their families and communities.[452] The Committee heard that women who cannot access healing lodges have access to the Pathways Initiative, which "consist of a house or unit [that has] a certain number of beds where women who are interested in following more of a healing path ... can participate."[453] A representative from CSC told the Committee the Pathways Initiative is available in all CSC institutions.[454]

As mentioned previously in the report, women are not able to reside in healing lodges if they are classified at the maximum-security level, which has severely limited access to healing lodges for many Indigenous female inmates.[455] At times, spots in healing lodges are given to non-Indigenous women, despite Indigenous women's disproportionately high rate of incarceration.[456] According to the Honourable Kim Pate, Senator, when Buffalo Sage Wellness House first opened, "initially no [I]ndigenous women were qualified to go there. None of them had low enough security.... In fact, they had to be reclassified in order to get [I]ndigenous women there."[457]

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[451] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1715 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[452] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[453] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1620 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[454] Ibid.

[455] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1615 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1230 (Jonathan Rudin, Program Director, Aboriginal Legal Services); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0850 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[456] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[457] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

The Correctional Investigator of Canada said that while residing in a healing lodge is a better option than being confined to a federal correctional institution, "It's not ideal. [Indigenous women are] still serving a sentence."[458] Preventing Indigenous women from getting involved in the justice and correctional system, as discussed previously in the report, should be a central focus of the federal government.

Recommendation 60

That the Government of Canada provide employment programs to more Indigenous female offenders by creating partnerships with community organizations that provide employment services to Indigenous female offenders and by establishing employment centres in all healing lodges.

Recommendation 61

That the Government of Canada ensure access to healing lodges for Indigenous female offenders with a medium security classification.

Recommendation 62

That the Government of Canada, in recognition of the fact that healing lodges operated by Indigenous communities do not receive as much support as healing lodges operated by Correctional Service Canada, ensure that equal funding be provided to community-operated healing lodges.

Recommendation 63

That the Government of Canada immediately "eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system," as directed by call to action #35 of the 2015 Report of the Truth and Reconciliation Commission of Canada, and address the lack of community-operated healing lodges under section 81 of the *Corrections and Conditional Release Act*.

Recommendation 64

That the Government of Canada, in consultation with Indigenous peoples and communities, create and provide adequate funding for healing lodges operated by Correctional Service Canada and communities and to other culturally appropriate programming for Indigenous female offenders in urban communities.

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[458] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1620 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

E. Section 81 and Section 84 of the *Corrections and Conditional Release Act*

The CCRA includes specific provisions, under sections 81 and 84, relating to the care, custody and release of Indigenous offenders.[459] These sections are particularly important for Indigenous communities and Indigenous offenders in federal correctional facilities. When these provisions were introduced, the Correctional Investigator of Canada indicated they were viewed as "extraordinarily creative, inventive, and so on, and they were looked at around the world as best practices."[460]

Section 81 of the CCRA provides for agreements to be established between the Minister of Public Safety and Emergency Preparedness and Indigenous communities for the provision of correctional services to Indigenous offenders and for payment to Indigenous communities for the provision of these services.[461]

Section 84 of the CCRA stipulates that if an inmate expresses an interest in being released into an Indigenous community, the CSC, with the inmate's consent, will give the community 1) adequate notice of the inmate's parole review or statutory release date; and 2) an opportunity to develop and propose a plan for the inmate's release and reintegration into the community.[462] CSC says that this allows Indigenous communities "to become active partners in the release planning and supervision of Aboriginal offenders."[463]

1. The Application of Sections 81 and 84 by Correctional Service Canada

A number of witnesses demanded that CSC "meaningfully engage" and apply sections 81 and 84 in order to fulfill the sections' legislative intent.[464] The Honourable Kim Pate, Senator explained:

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[459] *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

[460] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0935 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[461] *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

[462] Ibid.

[463] Correctional Service Canada, *Path Home: Release Planning Kit - Section 84 of the Corrections and Conditional Release Act*.

[464] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018; Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1545 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies) and 1535 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

> I would encourage you to look at the legislation and what the legislators intended and recognize that part of the reason we haven't seen full implementation of those provisions, in my view, is that over the last couple of decades—it's 25 years since the legislation was introduced—very few [I]ndigenous communities have even known about those provisions, and if they did, they were told that they had to build institutions in order to implement them.[465]

Kathryn Ferreira said "section 81 and section 84 releases are chronically … underutilized in federal corrections."[466] She urged the Committee "to not focus on improving services in the prison or building more healing lodge-style prisons; rather, [to focus] on the negotiation of individualized community-based and directed section 29, section 81, and section 84 agreements for individual Indigenous women."[467] The Correctional Investigator of Canada said that when these provisions were established, the hope had been that agreements would "become the norm, not the exception," that that was not the case.[468] The Honourable Kim Pate, Senator told the Committee that "[E]lders said that what they really needed was to be able to bring people out, back to their communities."[469]

The Committee heard that the implementation and success of sections 81 and 84 initiatives depend on CSC investing human and financial resources, but that these efforts are under resourced.[470] These efforts rely on CSC transferring resources to Indigenous communities to host offenders and support their healthy reintegration.[471]

Many witnesses suggested that there is a lack of awareness or understanding among Indigenous communities of these legislative provisions, despite the fact that the legislation was introduced over 25 years ago.[472] It was suggested that CSC improve its outreach to Indigenous communities to share information about sections 81 and 84 of the CCRA.[473]

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[465] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

[466] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1535 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[467] Ibid.

[468] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0935 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[469] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0925 (Hon. Kim Pate, Senator).

[470] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1125 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.).

[471] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1635 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[472] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

[473] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1230 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

The Committee was told that there is no need for legislative changes to sections 81 and 84 of the CCRA because they are underutilized due to CSC policy.[474] Savannah Gentile explained that CSC's policy "has restricted what the legislation allows, and in so doing has interfered with the intent of these provisions."[475] An example of such policy is the requirement that female offenders who have received a maximum-security classification are not permitted to access section 81 healing lodges.[476]

Sections 81 and 84 of the CCRA are discussed in greater detail in the following sections.

2. Section 81 of the *Corrections and Conditional Release Act*

The Committee heard that section 81 of the CCRA does not specify how Indigenous communities are to manage offenders under their care and custody. Two approaches have evolved: 1) the most common approach is through the funding of Indigenous healing lodges or centres, which are facilities that house offenders transferred from CSC institutions; 2) the second approach is through funding agreements with Indigenous communities that accept offenders into their communities and deliver programs without the establishment of formal healing lodges.[477]

Witnesses highlighted a number of steps that CSC and the federal government could take to increase the use of section 81 and to improve the success of section 81 healing lodges. To begin, Indigenous communities should be provided resources and support from CSC under section 81 to establish healing lodges, instead of that funding being invested in prisons.[478] Savannah Gentile told the Committee that CSC "has frustrated the purpose of section 81 … by diverting funding from section 81, that is, agreements based in community, to prison-based interventions like pathways units that currently exist within many of the prisons."[479] The Correctional Investigator of Canada stated that the

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[474] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

[475] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1545 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[476] Ibid.

[477] Office of the Correctional Investigator, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act*, 22 October 2012.

[478] West Coast Prison Justice Society/Prisoners' Legal Services, "Brief to the House of Commons Committee on the Status of Women: Decarceration of Indigenous Women through Self-Determination," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018; SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[479] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

$220,000, which is the average annual cost of incarcerating a woman in Canada at the federal level, would be better spent by Indigenous communities providing healing lodges to Indigenous female offenders.[480] Furthermore, Jennifer Metcalfe said:

> The federal Government of Canada should ensure that [F]irst [N]ations and [I]ndigenous organizations have the resources ...to be able to provide healing lodges by and for [I]ndigenous people under section 81 of the *Corrections and Conditional Release Act*, regardless of security level, so that no [I]ndigenous woman should be required to set foot in a federal prison again.[481]

Secondly, the Committee heard that many Indigenous communities and offenders are not aware of other possible ways to apply section 81, that being the establishment of funding agreements with Indigenous communities to support offenders in communities without formal healing lodges.[482]

Moreover, many witnesses were concerned that healing lodges oprated under Section 81 do not receive equal funding to healing lodges operated by CSC.[483] According to Felice Yuen section 81 healing lodges "currently receive 60¢ to the dollar received by CSC-run healing lodges."[484]

As well, the Committee heard that section 81 agreements are five years in duration, which leads to funding insecurity for these healing lodges. With five-year funding cycles, there is limited flexibility for healing lodges to meet unexpected demands on budgets, including for instance, updates to infrastructure (either emergency or CSC requirements) or increases in the cost of insurance.[485] Because of funding constraints, healing lodges operated under section 81 typically have low staff salaries, leading to high turnover rates of employees and to many employees leaving to work at CSC facilities.[486]

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[480] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1555 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[481] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[482] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[483] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0850 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0850 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[484] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[485] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0850 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

A number of witnesses spoke of the excellent work of section 81 healing lodges. Claire Carefoot said:

> Buffalo Sage Wellness House provides culturally-appropriate women-centred programs to assist residents on their healing journey and to support them to make good decisions, pursue education and employment, and reconnect with their children and families. The staff at Buffalo Sage provide a high quality of support and supervision to promote the safety of the women as they establish themselves in the community as well as the safety of the general public.[487]

Claire Carefoot also shared some positive stories about section 81 healing lodges:

> We have many successes. We have a woman who was nationally known for her violence. Everyone in this room would know her name if I were to tell you. Several years ago she spent six years at Buffalo Sage Wellness House. She's in university right now and is going to be a lawyer. We have a woman who's a manager of a Tim Horton's. That maybe doesn't sound like a wonderful career for some people in this room, but believe me, for her it's a major step.[488]

Some witnesses requested that CSC increase the number of section 81 healing lodges for female offenders,[489] and that these centres be open in a variety of communities, including urban settings.[490]

3. Section 84 of the *Corrections and Conditional Release Act*

Under section 84 of the CCRA, Indigenous communities can be part of the reintegration process for Indigenous offenders, through the development of individualized contracts with CSC.[491] A section 84 release plan is often initiated well in advance of an offender's parole eligibility date.[492]

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[486] Ibid.

[487] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1645 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

[488] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0955 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

[489] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018.

[490] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

The collaborative development of a plan for an inmate's release and integration can improve the success of an Indigenous offender's application for conditional release.[493] The Auditor General of Canada noted that Indigenous offenders with a section 84 release plan were more likely to be granted parole than other Indigenous offenders.[494] A representative from CSC said that section 84 offenders are also more likely to receive a minimum-security classification prior to release.[495]

There are a number of challenges in establishing successful section 84 agreements. Firstly, many Indigenous communities and offenders may not be aware or have sufficient knowledge of the opportunities provided under section 84 of the CCRA.[496]

As well, the Committee heard that not all Indigenous communities have the resources to actively engage with CSC to provide meaningful input into a conditional release plan.[497] The Committee was also told that section 84 is not well understood by correctional authorities and that the process to complete a section 84 release is lengthy and complex.[498]

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[491] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1145 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1540 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); Office of the Correctional Investigator, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act*, 22 October 2012.

[492] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0910 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[493] Ibid., 0855 (Angela Connidis, Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness).

[494] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1145 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[495] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1530 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[496] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1715 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[497] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0855 (Angela Connidis, Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1030 (Audra Andrews, Representative, Union of Solicitor General Employees).

[498] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1035 (Audra Andrews, Representative, Union of Solicitor General Employees).

Moreover, the Committee was informed that communities are not compensated for monitoring an offender's compliance with Section 84 conditions, although CSC may pay for access to services, programs, and transportation where it is required by the release plan. Many communities may lack the services, programs and requirements outlined in a section 84 release, such as addiction services or employment opportunities.[499] As such, a number of witnesses requested that Indigenous communities be provided with additional resources, including funding, to support the successful implementation of a section 84 agreements.[500] The Native Women's Association of Canada explained:

> Building resources and capacity in these areas supports entire communities as well as the women returning to them. There must also be a degree of community ownership and self-determination in the development and implementation of reintegration plans.[501]

Furthermore, the Committee heard that if CSC does not provide Indigenous communities with proper resources, those offenders who are released under section 84 of the CCRA may struggle to successfully reintegrate into their communities. Odessa Marchand spoke of the challenges with respect to her release under section 84 of the CCRA:

> At the end of my sentence, I did a section 84 for aboriginal people, so people in my community are supposed to support me.... I've been three years out and I've never really seen anybody or what the section 84 had to offer me. I just feel that for other people, if they get section 84, is that how it's going to look for them too? I wouldn't want another woman to go through what I went through, feeling like a failure and getting dropped.... If I don't have an [E]lder coming to see me weekly, or an aboriginal liaison at that point in time, I feel that when I'm asking for help, it's not getting to me.[502]

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[499] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[500] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1540 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1010 (Audra Andrews, Representative, Union of Solicitor General Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1650 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[501] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1535 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada); Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018.

[502] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Odessa Marchand, As an individual).

Recommendation 65

That the Government of Canada, in consultation with Indigenous peoples and communities, increase the number of and provide adequate resources for agreements concluded with Indigenous communities under section 84 of the *Corrections and Conditional Release Act*.

Recommendation 66

That the Government of Canada, in consultation with Indigenous peoples and communities, provide additional resources to Correctional Service Canada and Indigenous communities to increase the use of sections 29, 81 and 84 of the *Corrections and Conditional Release Act*.

F. Access to Training and Education for Inmates

Many Indigenous women face profound socio-economic disadvantages, have limited access to post-secondary education and lack employability skills.[503] However, a number of witnesses suggested that CSC must invest in training and education for Indigenous female inmates, as it is critical to their rehabilitation and reintegration.[504] Seeking an education or building employment skills can increase an inmates' confidence and sense of accomplishment, as well as provide them with essential skills to succeed once they are released.[505] CSC provides a number of education, vocational and employment programs, outlined in the sections that follow.

Recommendation 67

That the Government of Canada provide the same level of access to employment skills training and educational opportunities for all incarcerated Indigenous women as other inmates.

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[503] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1710 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[504] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0930 (Hon. Kim Pate, Senator); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1135 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[505] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1015 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

Recommendation 68

That the Government of Canada explore options to provide and enhance employment skills training and educational opportunities for all classifications of incarcerated Indigenous women, including in maximum- and medium-security facilities.

1. Access to Education

The Committee heard that CSC offers a number of opportunities to advance inmates' education while in federal correctional institutions. A number of witnesses asked that CSC improve Indigenous female inmates' access to education programs, as well as increase funding and resources invested in such programs.[506] The Honourable Kim Pate, Senator, spoke of the struggle of Kinew James, an Indigenous woman who died in federal custody in 2015, to access education:

> [Ms. James'] brother said there was no end of resources available to use more security on his sister, to put her in segregation, to put her in restraints, or to transfer her across the country, but when she wanted to take a university course or even a high school course, or when she wanted to do something to try to ... better herself, there was a whole, long, drawn-out policy and description of why that couldn't be done, or why it took so long. I think that's what we have to fundamentally change. These are policy decisions about how we decide to quickly spend money and not quickly spend money.[507]

The Committee heard that if Indigenous women complete educational programs, particularly attaining a high-school diploma or pursuing post-secondary education, they are more likely to be meaningfully employed in decent jobs once back in the community.[508] Chas Coutlee told the Committee that education is critical to successful reintegration post-release:

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[506] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1650 (Mary Fayant, Elder, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Chas Coutlee, As an individual); Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017; West Coast Prison Justice Society/Prisoners' Legal Services, "Brief to the House of Commons Committee on the Status of Women: Decarceration of Indigenous Women through Self-Determination," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[507] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0930 (Hon. Kim Pate, Senator).

[508] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1650 (Mary Fayant, Elder, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1630 (Audra Andrews, Union of Safety and Justice Employees).

> [Elder Holy Cow] always reminded us women that "just because this is where you're at right now...this is not your final destination." I wanted more than anything to be a good mom and a good role model for my daughter, and today I am. I choose to live my life today with one foot in ceremony and one foot in education. Indigenous culture saves lives, and education produces access or choices to live well and as productive members of society.[509]

2. Access to Employment Skills Training

Within CSC, CORCAN is a special operating agency within CSC that provides "offenders with employment and employability skills training while incarcerated in federal penitentiaries, and for brief periods of time, after they are released into the community."[510] CORCAN's goal is to assist offenders in becoming "employment ready upon release" through on-the-job and third-party certified vocational training that focuses on four business lines: Manufacturing, Textiles, Construction and Services.[511]

The Correctional Investigator of Canada was critical of the CORCAN program, stating that the program needs to be updated in response to the evolving labour market, in order to ensure that inmates are developing skills that will help them in their communities post-release. As well, he pointed out that while CORCAN has "well-equipped facilities with outstanding facilitators," there are low rates of participation among the prison population, with less than 10% of the inmate population involved in CORCAN initiatives.[512]

The Committee heard that female inmates are engaged primarily in gender-stereotyped work, such as that involving sewing, textiles and beadwork, which provides them with limited and impractical employment skills.[513] Katharine Curry, Policy Analyst at the Native Women's Association of Canada, told the Committee that at the Joliette Institution for Women, female inmates "actually make men's underwear for male prisoners."[514] Rajwant Mangat explained:

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[509] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Chas Coutlee, As an individual).

[510] Correctional Service Canada, *CORCAN – Overview*.

[511] Ibid.

[512] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0940 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[513] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1545 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1020 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1015 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[514] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1620 (Katharine Curry, Policy Analyst, Native Women's Association of Canada).

> Programs that are available for women in terms of employment and education are really gendered and they really don't seem to speak to the kinds of skills that women are going to need in the economy when they get out of prison. Programs around sewing, cooking—and I was surprised to learn—flower arranging.[515]

A number of witnesses recommended that women should have access to training in a sector, such as the skilled trades, where there are good employment opportunities and the chance to earn a decent income to support themselves and their families.[516] Many witnesses said that Indigenous women should have access to vocational training, whereby they receive job-specific technical training for work in the trades.[517] Savannah Gentile recommended that a gender-based analysis plus be applied to the employment training programs offered to female offenders.[518]

A representative from CSC stated that the agency, through both CORCAN and on-site programs, has "made a commitment to increase the ability for women to earn a living wage upon release."[519] As well, CSC is expanding programs for women, so that female inmates are learning a wide variety of employment skills, for instance "more skills in construction, and not just ... sewing."[520]

Recommendation 69

That the Government of Canada conduct an analysis of the employment skills training provided to incarcerated Indigenous women to ensure the opportunities provide, to the best extent possible, marketable labour skills and experience.

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[515] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1135 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[516] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada) and 1630 (Audra Andrews, Union of Safety and Justice Employees).

[517] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 29 November 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1620 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1645 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[518] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1620 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[519] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1555 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada).

[520] Ibid., 1540 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada).

Recommendation 70

That the Government of Canada immediately review employment skills training in women's correctional facilities to more accurately reflect market conditions and opportunities for well-paying employment upon release, which may include a gender-based analysis plus on their CORCAN job training programming.

3. Access to Work Releases

CSC also offers a work release program to offenders. Work releases are established for a specified period of time, involving work or community service outside the correctional institution, and generally require offenders to return to custody or a halfway house each day.[521] Work releases allow prisoners to gain important work-related skills and to gradually reintegrate into their communities.[522]

Some witnesses said that there is limited access to work releases for certain female inmates, including women classified at the maximum-security level, which in turn harms their eventual reintegration into their communities post-release.[523]

Witnesses recommended that CSC should provide additional funding and resources to promote work releases among Indigenous female inmates.[524] Audra Andrews said: "Work releases take time and money. It takes a lot of work to seek out potential employers who are willing to work with our offenders. It can be quite frustrating for the employers at times after we've done this, and they still have to wait. It's frustrating for everybody involved."[525]

The Committee heard recommendations that CSC should be creative in seeking work release employment opportunities for inmates. For instance, CSC could build partnerships with leading Canadian employment organizations in order to deliver effective programming based on the current labour market.[526] Eric Michael shared a creative work release opportunity, which was only available to male inmates:

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[521] Correctional Service Canada, *Types of Release*.

[522] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1645 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

[523] Ibid., 1645 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual) and 1535 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[524] Ibid., 1645 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[525] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees).

> In 2013, Willow Cree Healing Lodge entered into a partnership with the [F]irst [N]ations and Habitat for Humanity in order to provide training and meaningful work release to the offenders. The offenders provided the labour to construct five Habitat for Humanity homes, one per year, in the community of Duck Lake, Saskatchewan. The offenders participated in a construction worker preparation certificate program offered through a community college. They received on-the-job training during temporary absences to the construction site and were mentored by a journeyperson carpenter.[527]

Recommendation 71

That the Government of Canada streamline the work release process in order to make it easier and timely for employers to hire Indigenous female offenders who qualify for the work release process.

G. Mental Health and Other Health Services

The Committee heard that many Indigenous female inmates have a number of serious health problems; in particular, they often live with untreated mental health conditions. The CCRA states that CSC is responsible for providing "every inmate with essential health care and reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration in the community."[528]

According to the Correctional Investigator of Canada, rates of mental health problems and illnesses among female inmates are very high, with nearly 80% of incarcerated women meeting the criteria for some current mental disorder. Mental health disorders include alcohol/substance addiction, anxiety disorders, anti-personality disorder, post-traumatic stress disorder (PTSD), mood disorders, eating disorders, and psychotic disorders. Furthermore, nearly half of female inmates have an active psychotropic medication prescription.[529]

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526 SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1010 (Audra Andrews, Representative, Union of Solicitor General Employees).

527 FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1645 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

528 *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

529 Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

The Committee was also informed that incarcerated women have experienced a higher prevalence of adverse childhood events and traumatic life-events, as well as intergenerational trauma, when compared with the general female population.[530] Many female inmates suffer from alcohol and drug addiction as well as mental health disorders, and have self-harm and suicidal tendencies.[531]

While evidence indicates that many inmates enter federal correctional facilities with mental health problems and illnesses, the Committee heard that these conditions are often exacerbated by the prison system.[532] The Committee was told that CSC should provide prisoners with adequate support services and counselling focused on mental health and well-being with the goal of building mental health resilience once inmates are released.[533] The Native Courtworker and Counselling Association of British Columbia, in a written brief, said that currently "unmet health needs are criminalized."[534]

The Committee heard that all inmates should have a full physical and mental health assessment upon being admitted to a federal correctional institution. This evaluation should gather information about an inmate's mental health and well-being, as well as any disabilities.[535] Rajwant Mangat asked the Committee: "How do we tell if they're worsening, getting better, or staying the same if we don't understand and we're not taking a holistic look at the person when they're coming into the prison?"[536] In a written brief, Ruth Elwood Martin, Clinical Professor at the School of Population and Public Health and Collaborating Centre for Prison Health and Education, University of British Columbia, said that: "Incarcerated individuals should have access to healthcare that is an equivalent standard to that available in the community." She explained:

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[530] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[531] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1630 (Audra Andrews, Union of Safety and Justice Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1600 (Marie-France Kingsley, Acting Executive Director, Office of the Correctional Investigator of Canada).

[532] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1150 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual).

[533] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[534] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[535] Ibid.; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1155 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[536] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1155 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

> Incarceration is an opportunity to screen for cancer, cardiovascular disease, and diabetes; assess diet, exercise, and tobacco use; address persistent health concerns (e.g. substance use disorders, mental and chronic health). Emerging evidence suggests that when incarcerated individuals are supported to achieve their health and social goals, criminal recidivism decreases and community (re)integration improves.[537]

1. Trauma-Informed, Culturally Appropriate Health Services

The Committee heard that Indigenous female inmates often access health care services in prison that are not culturally appropriate.[538] Health care workers should receive training on Indigenous history and culture so that they have a basic level of cultural understanding.[539] In particular, mental health services should incorporate Indigenous spirituality, including the participation of Elders and use of Indigenous language.[540]

The Committee was also informed that there is a need among Indigenous female inmates for better access to trauma and abuse counselling with mental health professionals.[541] Health care workers should be trained on trauma-informed care, a treatment framework that recognizes and responds to the effects of different types of trauma.[542]

As well, correctional staff must recognize how trauma affects mental health and behaviours, and take that into consideration when assigning security classifications to prisoners, so that female inmates who have experienced severe trauma are not unnecessarily assigned higher security classifications and subsequently denied access to support services needed to heal.[543]

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[537] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[538] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[539] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[540] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Ruth ScalpLock, As an individual).

[541] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[542] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[543] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

In a written brief, Ruth Elwood Martin suggested that the federal government fund a study, including a gender-based analysis, to examine the effects of past trauma, particularly in childhood, on incarcerated Indigenous peoples in Canada.[544]

Recommendation 72

That the Government of Canada provide funding for a study to examine adverse childhood experiences and past-trauma among incarcerated Indigenous people in Canada, including a gender-based analysis.

2. Shortage of Mental Health Resources

A number of witnesses stated that there is a shortage of mental health resources in federal correctional facilities, particularly to respond to severe mental health conditions. For instance, Savannah Gentile told the Committee: "Let me be clear: CSC did not implement recommendations that could have led to a massive change in our ability to treat mental health in the community."[545] Additional mental health nurses and psychologists are needed in order to reduce wait-lists to access these mental health support services.[546] The Committee heard that CSC's mental health teams are not fully staffed across women's institutions.[547] Zef Ordman, Regional Vice-President of the Union of Solicitor General Employees, said that there is a need for psychologists and doctors to deal with the serious mental health problems and illnesses in prisons:

> Inside of CSC, when we say someone's mental health is stable, we're comparing them to other inmates. We're not comparing them to the general population. If we compare most of the offenders or inmates, they're off the charts. I would suspect fetal alcohol. I would expect mental health issues. There's depression. There's PTSD.[548]

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[544] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018.

[545] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1540 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[546] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1630 (Audra Andrews, Union of Safety and Justice Employees) and 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[547] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[548] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1025 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

The Auditor General of Canada told the Committee that CSC "did not have sufficient capacity to deliver the mental health services that women offenders needed."[549] Kathryn Ferreira said CSC "is unable to manage [complex mental health] cases because their apparent security concerns will always trump treatment."[550] Audra Andrews said:

> I would like to specifically highlight the increasing complexity of cases, including those of women with serious mental health issues, violence, complex health issues, and serious addictions, that challenge the capacity of staff and infrastructure in both the institution and the community.[551]

There was concern expressed that women with behavioural issues are cohabitating in maximum-security units with women who are acutely mental ill and who may have chronically self-harming or suicidal tendencies; the cohabitation makes treatment and recovery very challenging for women with mental illness.[552] The Committee heard that mentally ill women should be housed in external psychiatric facilities.[553] However, a number of witnesses indicated there are not enough beds available and asked for additional resources to increase bed space in specialized mental health units in regional psychiatric centres.[554] The Auditor General of Canada noted that CSC's "one psychiatric hospital operated at or near full capacity over the past two years. CSC has not yet secured additional beds within provincial psychiatric hospitals to address identified shortfalls."[555]

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[549] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[550] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1540 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[551] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1600 (Audra Andrews, Union of Safety and Justice Employees).

[552] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1605 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[553] Ibid.

[554] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1600 (Audra Andrews, Union of Safety and Justice Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1605 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[555] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

Recommendation 73

That the Government of Canada provide additional resources to properly evaluate all Indigenous female offenders upon entry to a federal correctional facility for mental illness, trauma, and disabilities, to assign the appropriate care for treatment and rehabilitation.

3. The Collection of Health Data

The Committee was told that CSC should be collecting high-quality, reliable, disaggregated data on health, particularly mental health, of its inmates.[556] For instance, a representative from CSC said that while they screen inmates for cognitive impairments during intake screening, CSC does not collect data on rates of traumatic brain injury. She said that a recently implemented electronic health records system may allow them to collect this data in the future.[557]

Recommendation 74

That the Government of Canada examine its existing health data collection system for incarcerated Indigenous women in federal correctional institutions, and address any shortcomings in data collection, particularly for mental health problems and illnesses, fetal alcohol spectrum disorder, and cognitive impairments.

4. Twenty-four Hour Access to Health Care

The Committee heard that female inmates are not currently provided with twenty-four access to health care services; if there are urgent health care needs, CSC has an on-call service.[558] However, a representative from CSC agreed that "having someone on site would be beneficial."[559] A number of witnesses recommended that women's correctional institutions provide inmates with twenty-four access to health care services, such as access to a nurse at the minimum.[560] For instance, the Correctional Investigator of Canada stated that:

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[556] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1155 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[557] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1610 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[558] Ibid., 1620 (Kelley Blanchette, Deputy Commissioner for Women, Correctional Service of Canada).

[559] Ibid.

> We believe that in medium-security and maximum-security institutions, or multi-level ones like a women's institution, nursing at least would be available 24-7. That is especially important given the profile of those offenders. The prevalence in terms of mental health and chronic diseases and all sorts of issues requires, in our view, that there be that kind of coverage.[561]

Virginia Lomax told the Committee that "there needs to be availability 24-7. This is especially true for [I]ndigenous women."[562]

The Auditor General of Canada expressed concern that CSC had "used cells on its segregation range to monitor women offenders at risk of self-injury or suicide, without 24-hour access to clinical treatment or support."[563]

Recommendation 75

That the Government of Canada increase access to healthcare for incarcerated Indigenous women so that healthcare be accessible 24 hours a day, 7 days a week, in federal correctional institutions, with specific consideration given to increasing mental health supports, including a greater number of mental health beds, and access to psychiatrists.

5. Addressing Substance Abuse

Rates of drug dependence, and accompanying infectious diseases, are very high among Indigenous female inmates. The Correctional Investigator of Canada said that approximately half of incarcerated Indigenous women had a history of drug use compared to a quarter of incarcerated non-Indigenous women.[564] The Committee heard that CSC should guarantee access to evidence-based and culturally appropriate drug dependence treatment for inmates.[565]

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[560] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1615 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1620 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[561] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1615 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[562] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1620 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[563] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1150 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[564] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

In part because of high rates of intravenous drug use, female inmates have a high incidence of HIV infection. The Committee was told that the incidence of HIV infections among prisoners in Canada is approximately 10 times greater than in the general population.[566] The Committee heard that a 2007 CSC survey noted that "17% of men and 14% of women reported injecting drugs during the past six months in prison, and roughly half reported sharing injection equipment, including with people who had HIV or [hepatitis C]."[567]

The Committee heard that inmates should have access to harm reduction programs, including syringe and needle exchange programs, to reduce the spread of HIV and hepatitis C in prisons.[568] According to a written brief, submitted by the Canadian Aboriginal AIDS Network and partner organizations, "best available evidence suggests that in countries where prison-based needle and syringe programs … exist, they reduce risk behaviour, infection and overdose without increasing drug consumption or endangering staff or prisoner safety."[569] Ruth Elwood Martin in a written brief, suggested that CSC implement a pilot needle and syringe exchange program in federal correctional facilities, with the intention of expanding if the program is evaluated and deemed successful.[570] She also recommended that CSC invest in naloxone training – an opioid reversal drug – for all front-line correctional staff and inmates.[571]

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[565] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[566] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[567] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[568] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018; Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[569] Canadian Aboriginal AIDS Network, et al., "Brief to the Standing Committee on the Status of Women: The need for drug policy reform and comprehensive prison-based harm reduction," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[570] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[571] Ibid.

Recommendation 76

That the Government of Canada develop and implement culturally appropriate and gender-specific substance abuse programs, as well as harm reduction services for Indigenous female inmates who are drug users, in federal correctional facilities.

Recommendation 77

That the Government of Canada "[e]xpand care, treatment and support services to women in detention living with or vulnerable to HIV/AIDS, including by implementing prison-based needle and syringe programmes, opioid substitution therapy, condoms and other safer sex supplies," as called for in 2016 by the United Nations Committee on the Elimination of Discrimination against Women in its Concluding observations on the combined eighth and ninth periodic reports of Canada.

6. Section 29 of the *Corrections and Conditional Release Act*

Section 29 of the CCRA permits the transfer of inmates from prisons into health and other facilities.[572] This section can be used to transfer Indigenous female inmates with severe mental health problems and illnesses to health facilities so they can receive access to appropriate services; the Committee was told that such transfers should be preferable to keeping women with untreated mental health conditions in correctional facilities.[573]

However, the Committee heard that section 29 of the CCRA is underused. The Correctional Investigator of Canada told the Committee:

> We have many individuals who are classified in maximum security because they have significant mental health issues. There's a high prevalence of [I]ndigenous offenders with FASD. There are some severe addiction issues. People are being put into a higher classification than needed, rather than into a therapeutic environment where trauma-informed therapy is provided, where sustained addiction issues are being addressed, and where mental health issues and cultural needs are being looked after.[574]

The Honourable Kim Pate, Senator, said that while CSC has exchange-of-services agreements with all of the provinces and territories, these agreements are designed primarily to deal with physical health related-care; there should be agreements established that include mental health care.[575]

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[572] *Corrections and Conditional Release Act*, S.C. 1992, c. 20.

[573] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1540 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[574] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0910 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

Recommendation 78

That the Government of Canada enter, as soon as possible, into Memorandums of Understanding with provincial and territorial mental health facilities to ensure that if Indigenous female offenders need mental health care they can access that care in their province or territory of incarceration.

7. Placing Women in All-Male Treatment Centres

The Correctional Investigator of Canada expressed serious concern with CSC's policy of placing women with severe mental health problems and illnesses in all-male treatment centres. He told the Committee:

> The practice of taking a woman with acute mental illness and putting her into an all-male institution, completed isolated, all alone in a unit, is shameful and a violation of human rights. I think there is no room for this in Canada.[576]

He demanded that CSC "prohibit placements of significantly mentally ill women in all-male Treatment Centres"[577] and that they sign agreements with provinces to send these women to provincial mental health facilities instead.[578]

A representative from CSC told the Committee that they send women to all-male treatment centres "only in an emergency situation and it's only for short periods of time." They explained that a woman is sent to these facilities in order to keep her close to home, where the inmate has her case management team, her parole officer, and likely her family.[579] A representative from CSC said that they "certainly explore options for partnerships to be able to send women to psychiatric centres in the community."[580]

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[575] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0910 (Hon. Kim Pate, Senator).

[576] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1610 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[577] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

[578] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1610 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[579] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1625 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[580] Ibid.

Recommendation 79

That the Government of Canada immediately prohibit the transfer of federally incarcerated women in need of mental health care to all-male treatment centres, and ensure that federally incarcerated women are transferred to treatment centres that serve women or, preferably, "to a local external community psychiatric hospital as required," as called for by the 2016-2017 Annual Report of the Office of the Correctional Investigator.

8. Fetal Alcohol Spectrum Disorder

The Committee heard that Indigenous prisoners likely have high rates of fetal alcohol spectrum disorder (FASD),[581] which according to CSC, describes a "range of disabilities which result from prenatal exposure to alcohol."[582] The rate of FASD among Indigenous female inmates remains unclear, in large part because of challenges of obtaining a diagnosis for this condition.[583]

A representative from CSC indicated that the agency conducts some screening and assessments to test inmates for possible FASD.[584] CSC can also conduct more in-depth FASD assessments of prisoners, but "it's not necessarily a diagnosis," and in the past, CSC has "provided funding to external agencies with expertise to come in and diagnose any cases of suspected FASD."[585] A CSC representative also said they do not necessarily need a FASD diagnosis as they can still "adapt to meet that offender's needs."[586]

However, some witnesses suggested that it is important to detect and diagnose FASD among offenders as early as possible. A diagnosis of FASD should be factored into an offender's sentencing and should influence programming offered by CSC.[587] Furthermore, the Committee heard that conducting an assessment for FASD is complex and expensive, requiring psychologists with special skills and understanding.[588]

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[581] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018; Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018; SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0910 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[582] Correctional Service Canada, *Fetal Alcohol Spectrum Disorder*.

[583] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1025 (Audra Andrews, Representative, Union of Solicitor General Employees).

[584] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1620 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[585] Ibid.

[586] Ibid.

Recommendation 80

That the Government of Canada immediately provide funding for the diagnoses and treatment of fetal alcohol syndrome disorder upon arrival of Indigenous female offenders in federal correctional facilities and during their incarceration.

Recommendation 81

That the Government of Canada, in collaboration with provinces and territories and working in partnership with Indigenous peoples and communities, "recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, and increase funding for FASD preventive programs that can be delivered in a culturally appropriate manner," as directed by call to action #33 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

Recommendation 82

That the Government of Canada, in partnership with Indigenous peoples and communities, "undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including: i. providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD; ii. enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD; iii. providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community; iv. adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety," as directed by call to action #34 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

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[587] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1640 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1025 (Audra Andrews, Representative, Union of Solicitor General Employees).

[588] Ibid.

H. The Effect of Correctional Service Canada Employees and the Workplace on Indigenous Women's Well-being

The Committee heard that many CSC employees are dedicated to their work, respect the importance of their work,[589] and believe in their mandate of "actively assisting and encouraging offenders."[590] Audra Andrews said that CSC staff want to "assist these women to reassert their roles as mothers, aunts, daughters, and healthy, productive, positive members of the community."[591]

However, the Committee was informed that the CSC work environment can have a harmful effect on staff's mental health and well-being, which in turn impacts CSC staff's ability to work effectively with offenders.[592]

A number of witnesses said that CSC staff work under conditions of high stress and that morale is often very low among CSC staff. CSC staff are witnesses on a regular basis to "unbelievable trauma and pain" among the offender population,[593] and as a result staff experience a high-level of "vicarious trauma" while working closely with these offenders.[594] The Committee was informed that CSC has some training in place to build mental health resilience and improve mental well-being, such as the *Road to Mental Readiness,* but that the quality, format and delivery of the training requires some improvement.[595]

Furthermore, the Committee was told that harassment and bullying among staff is "rampant," and that these unacceptable work conditions have been normalized.[596] Zef Ordman said:

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[589] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees).

[590] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1605 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[591] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees).

[592] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1020 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[593] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees).

[594] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1020 (Audra Andrews, Representative, Union of Solicitor General Employees).

[595] Ibid.

[596] Ibid., 1020 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

> The impact of the harassment, bullying, and high stress because of the work environment is outrageous... It's across Canada... It's been happening for decades. My opinion is that it's the tip of the iceberg. For what you see above the water, there's a huge mass below....[597]

In addition, the Committee was informed that CSC staff are "consistently being asked to do more with less" by CSC and spend too many working hours on paperwork, which is leading to an increase in staff stress and burnouts;[598] and need better access to quality tools, training, resources and support from management to work effectively with offenders.[599]

Audra Andrews asked that CSC conduct "real and meaningful consultation with the staff who are doing the work" to make improvements in work conditions; any beneficial changes will in turn improve conditions for female inmates.[600]

Recommendation 83

That the Government of Canada increase funding to Correctional Service Canada to ensure effective program delivery as well as ensure that Correctional Service Canada staff have the time required to work with offenders to ensure their successful reintegration upon release.

Recommendation 84

That the Government of Canada, in consultation with relevant unions and employees, develop and implement a strategy to improve the working conditions and the mental health of Correctional Service Canada employees.

1. Training on Indigenous History and Culture

A number of witnesses said that Indigenous offenders may experience discrimination within the federal correctional system, as CSC staff may be overtly racist or hold unconscious biases against Indigenous peoples. As a result, there is a harmful lack of trust and respect between Indigenous female inmates and CSC staff.[601]

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[597] Ibid.

[598] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1020 (Audra Andrews, Representative, Union of Solicitor General Employees).

[599] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees).

[600] Ibid.

[601] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1030 (Lois Frank, Gladue Writer, Alberta Justice, As an Individual).

Witnesses recommended that CSC staff receive training on Indigenous history and culture in order to inform their work with Indigenous offenders. This training should be systematic and mandatory for all staff,[602] and offered by experts from outside CSC.[603] Witnesses asked that education and training focus on the following elements:

- Indigenous pre- and post-contact history, including the colonization of Indigenous peoples;[604]
- Indigenous culture, including experiential training, such as with Elders and with communities;[605]
- The trauma, and long-term effects, of residential schools on Indigenous communities;[606]
- The development of "realistic and meaningful section 84 release plans," specifically for parole officers.[607]

Felice Yuen recommended that CSC implement a program focused on encouraging reconciliation with Indigenous peoples. She gave as an example KAIROS Canada's "blanket exercise" which is designed to build empathy and understanding among CSC staff for Indigenous peoples and has recently been added to the regular Cadet Training Program at the RCMP Academy.[608]

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[602] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1705 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[603] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0955 (Audra Andrews, Representative, Union of Solicitor General Employees).

[604] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[605] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0955 (Audra Andrews, Representative, Union of Solicitor General Employees).

[606] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[607] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0955 (Audra Andrews, Representative, Union of Solicitor General Employees).

[608] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual); Royal Canadian Mounted Police, "New blanket exercise on Indigenous history moves RCMP cadets," *News*, 12 December 2017.

The Committee also heard that training should not treat Indigenous peoples as a homogenous group, instead highlighting differences in culture and history. For instance, Pauktuutit Inuit Women of Canada stated that CSC staff should receive an "orientation to Inuit culture, history, language and contemporary issues."[609]

The Honourable Kim Pate, Senator, recommended that the evaluation of a correctional officer's success in the workplace depend in part on the number of successful "work releases, conditional releases, section 81 agreement, and section 84 agreements" for offenders and implemented by that employee.[610]

Recommendation 85

That the Government of Canada require Correctional Service Canada to provide its staff with enhanced guidance and training on how the colonial impact on Indigenous history and culture should be considered in case management decisions and that this training be created in partnership with Indigenous peoples and organizations.

2. Diversity in Hiring

According to a representative from CSC, 9.5% of CSC employees have self-identified as being Indigenous, which is above the workforce estimated availability of 6.2%.[611] However, a number of witnesses recommended that CSC increase the representation of Indigenous people among its staff. Indigenous staff can act as role models for Indigenous female offenders and Indigenous staff can foster relationships of trust and respect between staff and inmates.[612] Dale LeClair said:

> It's easy [for the inmate] to blame the [justice and correctional] system in that a white person arrested you, a white person put you in jail, and now you have a white jailer, so you're just mad at the system. You develop these negative tendencies toward white people.[613]

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[609] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018.

[610] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0945 (Hon. Kim Pate, Senator).

[611] SECU, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0940 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[612] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Audra Andrews, Union of Safety and Justice Employees); SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0935 (Terry Teegee, Regional Chief, Assembly of First Nations); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0925 (Hazel Miron, Senior Investigator, Office of the Correctional Investigator of Canada).

[613] SECU, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 0930 (Dale LeClair, Chief of Staff, Métis National Council).

It was noted that hiring more Indigenous employees will not significantly change prison conditions, unless these efforts are accompanied by improved work conditions and staff training.[614]

The Committee was informed that federal female correctional facilities should also hire more female employees.[615] The female inmate population – particularly Indigenous women – has experienced high levels of sexual, physical, and psychological abuse outside prison, usually committed by men. As a result, having men work in the front lines of women's prisons can lead to serious fear among female inmates, creating a relationship of distrust between inmates and guards, and compounding female inmates' trauma.[616]

A central challenge in recruiting Indigenous and female employees is the hiring process, which the Committee heard is long and onerous, sometimes taking years to finalize.[617] For instance, Zef Ordman told the Committee:

> The process is outrageously long. When I entered as a correctional officer, I then had to go for three months and not get paid, so you have to be very young or very committed. The process prevents a lot of people from entering, and a big entry into at least the institutions, the prisons, is from the correctional officer side of things.[618]

A representative of the Office of the Correctional Investigator of Canada recommended that the hiring process be streamlined by CSC[619] and that retention and recruitment programs focus on increasing the proportion of Indigenous and female staff.[620] Audra Andrews told the Committee that "CSC also needs to go and reach out into the

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[614] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1620 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.).

[615] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1200 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1710 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[616] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1715 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada) and 1710 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission); FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1145 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/ Prisoners' Legal Services).

[617] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0955 (Audra Andrews, Representative, Union of Solicitor General Employees).

[618] Ibid., 1010 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[619] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees).

[620] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 0940 (Hazel Miron, Senior Investigator, Office of the Correctional Investigator of Canada).

[I]ndigenous communities and make it an appealing place to work."[621] Furthermore, the Committee was told that CSC should recruit students who have an interest in working in the justice and correctional systems and provide them with training and employment information.[622]

Recommendation 86

That the Government of Canada, in order to increase the number of Indigenous staff that work as Royal Canadian Mounted Police officers, correctional officers, and parole officers, visit Indigenous communities.

Recommendation 87

That the Government of Canada allocate grants for new Indigenous correctional officers to cover the potential loss of income associated with Correctional Service Canada's lengthy training process.

I. The Importance of Relationships with Family for Indigenous Female Offenders

Many witnesses suggested that Indigenous women's community reintegration depends in part on healthy and supportive relationships with their families, their children and their communities. Kathryn Ferreira said that "two-thirds of federally sentenced women are mothers and have primary child care responsibilities."[623]

According to CSC, the agency provides a mother-child program, which is "a continuum of services and supports which aims to foster positive relationships between women incarcerated in women offender institutions and units and their children and to provide a supportive environment that promotes stability and continuity for the mother-child relationship."[624] A representative from CSC said that federal institutions have a family visiting program, whereby offenders and family can spend some time together within the institution.[625]

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[621] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees).

[622] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1245 (Stephanie Weasel Child, Senior Manager, Claims and Research, Siksika First Nation).

[623] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1530 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[624] Correctional Service Canada, *Institutional Mother-Child Program*.

[625] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1725 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada); Correctional Service Canada, *Visit an offender*.

The Committee heard that in the Indigenous healing lodge Buffalo Sage Wellness House, children up until school age can reside with their mother; after that age, it is deemed too disruptive to move the children in and out of the lodge, as this requires them, at times, to change schools.[626]

A number of witnesses stated that it is important to both children and their mothers to maintain relationships while the mothers are incarcerated.[627] Kathryn Ferreira said that "separation from their children, and the inability to deal with problems surrounding the separation, are major anxieties for women in prison."[628] As well, recent studies suggest that "mothers who care for children while serving their sentences have reduced recidivism rates compared with mothers who have had their children apprehended."[629]

As discussed in an earlier section of the report, children may be taken from their families and placed in foster care during their mothers' time in prison, and this can have a seriously negative effect on children's well-being.[630] Evidence indicates that "a newborn's attachment to his/her mother is critical to her/his long-term healthy development."[631]

As well, Ruth Elwood Martin in a written brief, said: "Working to keep families together aligns with the recommendations of the Truth and Reconciliation Commission, and with the United Nations Declaration on the Rights of Indigenous Peoples."[632]

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[626] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1710 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

[627] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Chas Coutlee, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1645 (Darlene Shackelly, Executive Director, Native Courtworker and Counselling Association of British Columbia).

[628] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1530 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[629] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[630] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[631] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 26 January 2018.

[632] Ibid.

The Committee heard that having children reside with their mothers in healing lodges is not only beneficial to the mother and children, but also to the other residents.[633] Mary Fayant explained that "not only does the mother become a mother to the child, but the whole inside, all the women, become a community. They mother the child also, and they're aunties to that child."[634]

The Committee heard that there is a need for assistance with the reintegration of mothers into their families. The Native Courtworker and Counselling Association of British Columbia, in a written brief, said "the process should be started while the mother is still incarcerated, with at least access to phone/video calls with the children to keep that connection."[635]

As well, the Committee heard that including the offender's family in the rehabilitation and healing process for an Indigenous offender is beneficial to both the offender and their family. For instance:

> If you involve their families, their mothers, their fathers, their brothers and sisters, you'll create a family unit that operates on the same level. If they've all taken breaking barriers together, the mother and the father, the brother and sister, and the children know what that means, so every step of the way that individual has a support system already in place for them out there that knows what they've been through, what they're expected to do, what they've learned, and has the tools to deal with that individual just as that individual does, so the inmate has the tools and his family has the tools as well.[636]

However, there are a number of barriers to Indigenous female inmates' efforts to maintain contact with their families, especially their children. Many Indigenous families "cannot get rides or afford gas to drive to the institutions for visits, do not know how to navigate the system to set up a visit, or are so far away that a visit is not an option."[637] As well, many Indigenous women are from disadvantaged socio-economic backgrounds, and do not have the money or credit cards to afford the cost of regular calls home.[638]

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[633] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1710 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

[634] *Ibid.*, 1650 (Mary Fayant, Elder, As an individual).

[635] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[636] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0950 (Neal Freeland, As an Individual).

[637] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[638] Ibid.; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

Moreover, many Indigenous mothers do not want their children to visit them in prison because of the shame associated with being incarcerated and the fear that the institutionalized environment may scare or traumatize their children.[639]

A number of witnesses proposed solutions to ensure that Indigenous women have the opportunity to maintain their family relationships while incarcerated. The Committee heard that the use of technology, such as Skype, is a key solution to keeping families connected, despite geographical distance or visitation limits, although there are costs associated with this approach.[640] In a written brief, West Coast Prison Justice Society/Prisoners' Legal Services recommended that prisoner pay rates be increased so that inmates can afford telephone or digital contact with their families.[641]

Ruth Elwood Martin recommended that the federal government, in collaboration with the provinces and territories, support the implementation of mother-child units in correctional facilities, including infants.[642] She also suggested establishing community alternatives to custody for mothers who are primary caregivers or women who are expected to give birth while in prison.[643] As well, witnesses recommended that the federal government, in collaboration with the provinces and territories, make family reunification a priority post-release by providing support services and parenting courses.[644]

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[639] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1645 (Darlene Shackelly, Executive Director, Native Courtworker and Counselling Association of British Columbia).

[640] Native Courtworker and Counselling Association of British Columbia, "Presentation to: The House of Commons Standing Committee on the Status of Women," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018; FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1555 (Darlene Shackelly, Executive Director, Native Courtworker and Counselling Association of British Columbia).

[641] West Coast Prison Justice Society/Prisoners' Legal Services, "Brief to the House of Commons Committee on the Status of Women: Decarceration of Indigenous Women through Self-Determination," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 12 February 2018.

[642] Ruth Elwood Martin, "Policy Brief: Canadian House of Commons' Standing Committee on the Status of Women – Indigenous women in the federal justice and correctional systems," ***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 26 January 2018.

[643] Ibid.

[644] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Chas Coutlee, As an individual); House of Commons Standing Committee on Public Safety and National Security, *Evidence*, 1st Session, 42nd Parliament, 21 November 2017, 1015 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta).

The Committee also heard that the rehabilitation and healing of Indigenous female offenders also depends on the rehabilitation and healing of Indigenous men, who are also incarcerated at disproportionate rates.[645]

Recommendation 88

That the Government of Canada improve the Mother-Child Program operated by Correctional Service Canada to increase Indigenous women's access to their children while incarcerated, including allowing Indigenous children to remain with their mothers where feasible.

J. Parole, Reintegration and Healing

The Parole Board of Canada (PBC), which is part of the Canadian criminal justice system, is an independent administrative tribunal that has the authority to "grant, deny, cancel, terminate or revoke day parole and full parole" to federal offenders and for provincial offenders in the provinces and territories without their own parole boards.[646] Conditional release includes:[647]

- Full Parole: allows offenders to serve part of a prison sentence in the community, without requiring them to return nightly to an institution; they are under supervision and must report regularly to a parole supervisor or to the police.

- Day Parole: provides offenders with the opportunity to participate in on-going community-based activities while they reside at a correctional institution or community residence.

Temporary absences may also be permitted, for which granting authority is the shared responsibility of the PBC and CSC in the federal system; the three types of temporary absences are escorted temporary absences, unescorted temporary absences and work releases.[648]

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[645] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1155 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[646] Government of Canada – Parole Board of Canada, *Mandate and Organization*.

[647] Correctional Service Canada, *Types of Release*.

[648] Ibid.

Statutory release, which is not granted by the PBC, requires federally sentenced offenders, who did not apply for release on parole or were denied release on full parole, to "serve the final third of their sentence in the community, under supervision and under conditions of release similar to those imposed on offenders released on full parole."[649] The PBC can keep offenders in an institution past their statutory release date if they are deemed too dangerous to return to the community. They are then released at the expiry of their sentences.[650]

1. Parole of Indigenous Female Inmates

According to the *Annual Report of the Office of the Correctional Investigator 2016–2017*, parole grant rates were lower for Indigenous than non-Indigenous offenders. The report indicated that in 2015–2016, "only 12% of Indigenous offenders had their cases prepared for a parole hearing once they were eligible" and 83% of "Indigenous offenders postponed their parole hearings." As well, Indigenous offenders were more likely than non-Indigenous offenders to be returned to prison as a result of suspension or revocation of parole.[651] The Correctional Investigator of Canada said that Indigenous female offenders are "released later [than non-Indigenous female offenders] in their sentences, likely at statutory release, which is at two-thirds of their sentence."[652]

The Committee heard that many Indigenous women do not apply or do not receive parole, and are therefore released on statutory release, which is generally harmful to reintegration as it gives the women a less "graduated and structured return to the community"[653] and limited access to services and resources.[654] In a written brief, Quebec Native Women Inc. said:

> Without adequate support, these women are even more prone to isolation, job insecurity and poverty (especially when they leave the penitentiary or prison), and

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[649] Ibid.

[650] Ibid.

[651] The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2016–2017*, 2017, pp. 48 and 50.

[652] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1550 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[653] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1535 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[654] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

> continue to engage in behaviours that put them at risk of quickly having run-ins with the justice system and that jeopardize their healing.[655]

Some of the factors contributing to Indigenous women's low parole grant rates, including participation in programming, are explained at the end of this section.

A representative from the PBC indicated that it provides Elder-assisted and community-assisted hearings, designed to "respond to the cultural values and traditions of [I]ndigenous offenders, while facilitating a more accurate understanding of the offender by board members." In 2016-2017, the PBC held 605 Elder-assisted hearings, of which 16% were for Indigenous female offenders and 3% were for non-Indigenous female offenders.[656] A community-assisted hearing offers Indigenous community members with the opportunity to participate in the hearing of the offender and to discuss the plan for the offender's conditional release and reintegration into the community; it normally involves an offender's section 84 of the CCRA release plan. In 2016-2017, the board held four community-assisted hearings; the PBC representative did not indicate if any of these hearings were for female inmates.[657]

Chas Coutlee said:

> My last parole hearing was in a circle, and we held an eagle feather when we talked. I was included, able to share my truth about my hopes and dreams for my future moving forward. Because this last parole hearing was [E]lder-assisted, it felt different than a non-[I]ndigenous parole hearing. Indigenous support is imperative for [I]ndigenous healing.[658]

There are efforts to increase the number of Elder-assisted hearings, through awareness-raising initiatives, such as "inreach," where the PBC connects with front-line staff and Indigenous offenders to share information.[659]

The Committee also heard that the PBC has two advisory bodies focused on Indigenous initiatives: the chairperson's Indigenous circle, which provides advice to the PBC on "matters related to policy development, training, and operations, ensuring that it recognizes the unique societal and cultural values related to [I]ndigenous offenders, victims, and their communities," and the National Elders Gathering, which assembles the PBC's Indigenous Elders to "discuss and provide advice and guidance to the chairperson's [I]ndigenous circle on the board's [I]ndigenous initiatives and programs."[660]

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[655] Ibid.

[656] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1145 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[657] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1145 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[658] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Chas Coutlee, As an individual).

[659] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1200 (Michelle Van De Bogart, Regional Director General, Ontario, Parole Board of Canada).

As well, a representative from CSC noted that the agency provides Aboriginal Community Liaison Officers, who work in the community, and meet "the offenders three months prior to their release and six months after release."[661]

The Committee was also informed that victims should be an "integral part of the criminal justice process and conditional release" and that it is important that their voices are heard at parole hearings. A representative from PBC said that victims can observe hearings, make presentations at hearings, share the impact of offences on themselves and their families, and identify concerns with respect to the conditional release of offenders.[662]

A number of witnesses outlined contributing factor to Indigenous women's low parole grant rates. For instance, members of the PBC consider an offender's participation in programs as key information in deciding whether the inmate should be granted parole. However, many Indigenous women are given maximum security classifications, which limits their access to programming that could support their parole applications and eventual reintegration.[663] As well, Indigenous women's access to culturally sensitive programs can be delayed because of wait-lists, postponement or cancellation of programs; a lack of participation in such programs can affect whether their parole applications are successful.[664] The Auditor General of Canada said "more than three-quarters of [I]ndigenous women offenders hadn't completed the rehabilitation programs they needed when they were first eligible for parole because they didn't get timely access to them."[665]

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[660] Ibid., 1145 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[661] House of Commons Standing Committee on Public Safety and National Security, *Evidence*, 1st Session, 42nd Parliament, 31 October 2017, 0910 (Anne Kelly, Senior Deputy Commissioner, Correctional Service of Canada).

[662] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1545 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[663] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1605 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[664] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1535 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[665] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1145 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

The Committee heard that low parole grant rates among Indigenous offenders are also a result of the poor socioeconomic conditions and living conditions within some offenders' communities.[666] Vicki Chartrand explained:

> When you're coming from poverty, you can't afford to live in a good place. Often the women would have to stay in an area called the crack shacks.... Of course, having worked for parole, you go in to do these community assessments, to see if they're going to be released into an environment that's suitable for their rehabilitation.... They can't afford to stay anywhere, other than an environment that's more than likely not going to be suitable for their parole.[667]

As well, union representatives suggested that the PBC is understaffed and employees are overworked. This situation has created a backlog whereby women are waiting inside institutions for access to halfway houses, and women in halfway houses are waiting longer for full parole.[668]

A number of witnesses had suggestions for improvements to the parole system that would positively affect Indigenous women's experiences. Savannah Gentile recommended that the federal government reinstate accelerated parole, because its elimination "was devastating to women."[669] Zef Ordman recommended that the PBC should implement "full, extensive, aboriginal-centred programs that address all [of Indigenous offenders'] needs: health, education, work, and housing."[670] As well, Audra Andrews recommended recruiting more Indigenous PBC board members to improve the PBC's ability to interact and collaborate with Indigenous communities and offenders.[671]

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[666] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1000 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[667] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1120 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual).

[668] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees); SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1000 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[669] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[670] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1000 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[671] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1600 (Audra Andrews, Union of Safety and Justice Employees).

While a representative from PBC said that board members and employees receive "Indigenous cultural awareness training,"[672] some witnesses recommended that PBC improve this training.[673]

Recommendation 89

That the Government of Canada provide professional and community-based training to parole officers, and simplify the hiring process for parole officers to increase the number of Indigenous staff.

Recommendation 90

That the Government of Canada enact legislation reinstating the accelerated parole review process under the *Corrections and Conditional Release Act*.

Recommendation 91

That the Government of Canada fill, as soon as possible, all vacancies on the Parole Board of Canada.

Recommendation 92

That the Government of Canada provide increased funding for community-based residential facilities operated by Correctional Service Canada or owned by non-governmental agencies who signed contracts with Correctional Service Canada, in particular for private home placements, which provide offenders with services and supports in a home environment.

Recommendation 93

That the Government of Canada make legislative changes to the *Corrections and Conditional Release Act* to limit the use of videoconferences, unless absolutely necessary, for Parole Board of Canada hearings, while continuing to allow victims of crime to appear by videoconference.

Recommendation 94

That the Government of Canada provide, immediately and on an ongoing basis, funding for the development and implementation of culturally appropriate parole programs and services for Indigenous female offenders, including

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[672] FEWO, *Evidence*, 1st Session, 42nd Parliament, 28 November 2017, 1145 (Suzanne Brisebois, Director General, Policy and Operations, Parole Board of Canada).

[673] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1000 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

culturally appropriate programs and services in halfway houses, as directed by call to action #37 of the 2015 Report of the Truth and Reconciliation Commission of Canada.

2. Reintegration of Indigenous Female Offenders into their Communities

The Committee heard that Indigenous female offenders can "change their lives dramatically if they are provided appropriate support and guidance."[674] However, Marie-Claude Landry told the Committee that Indigenous women have higher rates of recidivism "because the corrections system fails to rehabilitate and reintegrate them, which is compounded by the lack of support they receive after release."[675]

The Committee heard personal stories of the challenges with community reintegration post-release. Ruth ScalpLock shared her story:

> I was in jail, too, a long time ago, and I know how it feels. You're so lost. You have good intentions in there, but when you come out, you come out like me, being an alcoholic. I had all these good intentions, but what did I do when I came out? I went back to the street and got drunk. There has to be something in place that's solid to help them.[676]

As well, Mo Korchinski, Program Coordinator of Unlocking the Gates Peer Health Mentor Program at the Collaborating Centre for Prison Health and Education, University of British Columbia, said: "I'm very blessed that when I was released, I was able to find a research assistant job working with women being released from prison... Women tell us that they lose everything when they go to prison, and they are released with nothing except for their belongings in a clear plastic bag."[677]

A number of witnesses suggested there is a lack of support for inmates, including Indigenous women, when they are released from prison, either on parole or statutory release.[678] In a written brief, the Office of the Correctional Investigator of Canada noted there are some serious reintegration challenges for female inmates: 66% have no credit history; 63% have financial debt; 47% can't afford a residence; 39% do not have references for housing; and 37% do not have references for a job.[679]

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[674] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1600 (Audra Andrews, Union of Safety and Justice Employees).

[675] Ibid., 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[676] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1715 (Ruth ScalpLock, As an individual).

[677] Ibid., 1700 (Mo Korchinski, Program Coordinator, Unlocking the Gates Peer Health Mentor Program, Collaborating Centre for Prison Health and Education, University of British Columbia, As an individual).

[678] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1620 (Jacinthe Poulin, Health and social services Advisor, Regroupement des centres d'amitié autochtones du Québec inc.); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Odessa Marchand, As an individual); House of Commons Standing Committee on Public Safety and National Security, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1000 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

Additional challenges for Indigenous women upon release include:

- finding affordable housing, including suitable housing for their families if they are reunited with their children;[680]
- accessing suitable and meaningful employment, because of limited opportunities, few marketable employment skills, little or no employment history, or other reasons;[681] and
- being vulnerable to their previous addictions and habits, including drugs and alcohol.[682]

The Committee heard that Indigenous women need post-release services and supports that are culturally sensitive and located in their communities, including on-reserve and in urban centres.[683] Both Odessa Marchand and Audra Andrews recommended that CSC provide Indigenous offenders with timely access to Indigenous Elders post-release who can provide guidance and cultural ceremonies and support.[684]

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[679] Office of the Correctional Investigator of Canada, "Issues Facing (Indigenous) Women in the Federal Correctional System," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 29 November 2017.

[680] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1545 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0925 (Hon. Kim Pate, Senator).

[681] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1545 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0925 (Hon. Kim Pate, Senator).

[682] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Mo Korchinski, Program Coordinator, Unlocking the Gates Peer Health Mentor Program, Collaborating Centre for Prison Health and Education, University of British Columbia, As an individual).

[683] Ibid., 1700 (Ruth ScalpLock, As an individual); Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW)," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1110 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.).

[684] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1625 (Audra Andrews, Union of Safety and Justice Employees); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Odessa Marchand, As an individual).

As well, a number of witnesses observed that transitional services, including halfway houses, for inmates are often not culturally sensitive, which harms Indigenous women's reintegration efforts.[685] Odessa Marchand said:

> I went to a non-aboriginal halfway house, and there was very little support for me and my culture. In the halfway house, when I wanted help from the aboriginal liaison, I couldn't get hold of him. Inside federal corrections, there is an aboriginal [E]lder always available to us. Now that I was in the community, I felt dropped. I didn't know where to go for help.... It made me feel like a failure because I was asking for help and did not get it.[686]

Both Quebec Native Women Inc. and Pauktuutit Inuit Women of Canada suggested that staff of transitional services, including of halfway houses, need access to cultural sensitivity training and information about the unique needs of Indigenous women.[687] Felice Yuen recommended the creation of culturally sensitive halfway houses, or culturally sensitive units within existing halfway houses, to provide cultural programming to Indigenous women.[688]

The Committee was informed that another barrier to offender's community reintegration is that many inmates do not have valid government identification, which is needed to obtain bank accounts or secure employment.[689] Audra Andrews recommended that Indigenous Services Canada, in collaboration with the provinces and territories, hold ID clinics in prisons to help inmates obtain government identification, such as a social insurance card, a driver's licence or an Indian status card.[690]

Mo Korchinski said that mentorship and guidance are critical for female offenders post-release. She explained the purpose of the program peer health program:

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[685] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018; Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Odessa Marchand, As an individual).

[686] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1655 (Odessa Marchand, As an individual).

[687] Pauktuutit Inuit Women of Canada, *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 5 February 2018; Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"***Brief submitted to the House of Commons Standing Committee on the Status of Women***, 22 December 2017.

[688] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1220 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[689] SECU, *Evidence*, 1st Session, 42nd Parliament, 7 November 2017, 1005 (Zef Ordman, Regional Vice-President, Union of Solicitor General Employees).

[690] Ibid., 1005 (Audra Andrews, Representative, Union of Solicitor General Employees).

> We started a health peer mentor program five years ago where we mentor women for the first 72 hours upon their release. The impact of this program on women leaving prison is a feeling of being safe and supported on the day of their release. Approximately 65% of the peer health mentoring program participants are Indigenous. Being able to connect women with a peer health mentors who have prison experience themselves gives women hope that they too can beat the cycle of incarceration and addiction.[691]

The Committee heard that it is important that Indigenous communities and leadership participate in the development of reintegration plans for offenders returning to their communities.[692] However, many Indigenous communities do not have the services and opportunities required to successfully support Indigenous women's reintegration into their communities. For instance, Indigenous communities may be missing mental health services, addiction treatment services, suitable housing options, and employment opportunities.[693] In a written brief, Quebec Native Women Inc., recommended that both reserves and urban Indigenous communities receive funding for resources to assist Indigenous women who are trying to reintegrate into their communities following incarceration.[694]

A representative from Indigenous Services Canada said that they work with CSCC so that when Indigenous offenders return to the communities, "community-based programs are ready and adaptable to integrate them back into their communities."[695]

Recommendation 95

That the Government of Canada provide additional resources for community organizations that provide culturally appropriate support services and assist Indigenous peoples reintegration and healing.

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[691] FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Mo Korchinski, Program Coordinator, Unlocking the Gates Peer Health Mentor Program, Collaborating Centre for Prison Health and Education, University of British Columbia, As an individual).

[692] Native Women's Association of Canada, "House of Commons Committee on the Status of Women: Indigenous Women in the Federal Justice and Correctional Systems, February 2018," *Brief submitted to the House of Commons Standing Committee on the Status of Women*, 12 February 2018.

[693] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1610 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1650 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[694] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017.

[695] FEWO, *Evidence*, 1st Session, 42nd Parliament, 30 January 2018, 1550 (Mary-Luisa Kapelus, Director General, Strategic Policy, Planning and Information, First Nations and Inuit Health Branch, Department of Indigenous Services, Department of Indian Affairs and Northern).

Recommendation 96

That the Government of Canada work with its provincial and territorial counterparts to ensure that Indigenous female offenders receive provincial identification (e.g., health cards, photo ID, driver's licence) immediately upon release.

3. Healing for Indigenous Female Offenders

The Committee heard that the success of Indigenous female offenders' reintegration efforts depend in part on their ability to heal and seek forgiveness. A number of witnesses suggested it is important for Indigenous women to reconnect with their families and communities to heal and to seek reconciliation with those who were hurt directly or indirectly by their offences.[696] The Committee heard that Indigenous women see efforts to heal as intergenerational. Felice Yuen explained:

> It always goes back to intergenerational relationships—my son, my daughter, but also my grandmother, my mother. When they're experiencing a ceremony, they make comments such as, "My mother and my grandmother were never able to do this. I do it for them. I do it for my son." It's so connected. It's so intertwined that you can't separate and just focus on the woman—the individual—for healing. It needs to encompass, I mean, seven generations before and seven generations after.[697]

Indigenous women should be provided support while incarcerated and post-release to self-heal and heal relationships, as healing is a challenging process.[698] Eric Michael said:

> The healing journey from the [I]ndigenous world view will challenge you spiritually, emotionally, physically, and mentally. The healing journey requires honesty, humility, and courage. It is a journey where those things that torment the soul are confronted with the spirit of a warrior to restore wellness, heal relationships, rebuild one's sense of dignity, and create a healthy path moving forward.[699]

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[696] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1215 (Felice Yuen, Associate Professor, Concordia University, As an Individual); FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1600 (Audra Andrews, Union of Safety and Justice Employees; FEWO, Evidence, 1st Session, 42nd Parliament, 6 February 2018, 1640 (Claire Carefoot, Director, Corrections Program, Buffalo Sage Wellness House, Native Counselling Services of Alberta); SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[697] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1235 (Felice Yuen, Associate Professor, Concordia University, As an Individual).

[698] SECU, Evidence, 1st Session, 42nd Parliament, 21 November 2017, 0945 (Allen Benson, Chief Executive Officer, Native Counselling Services of Alberta).

[699] FEWO, Evidence, 1st Session, 42nd Parliament, 8 February 2018, 1640 (Eric Michael, Executive Director, Willow Cree Healing Lodge, Prairie Region, Correctional Service of Canada).

Concern was expressed that the correctional system, as it is currently designed, does not foster healing.[700]

K. Decarceration Strategies

A number of witnesses demanded the development of a "decarceration" strategy for Indigenous women, a process that involves reducing the number of Indigenous women imprisoned with the goal of eliminating imprisonment.[701]

The Committee heard that the federal government should redirect funding away from CSC and federal institutions, and instead invest in Indigenous communities and families, to keep Indigenous women out of the prison system.[702] Some witnesses also recommended that the federal government fund community alternatives to incarceration – accompanied by suitable services and supports.[703] Virginia Lomax recommended that the federal government provide "community-based, trauma-informed, culturally appropriate alternatives to incarceration for [I]ndigenous women."[704]

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[700] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[701] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1130 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1105 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0925 (Hon. Kim Pate, Senator).

[702] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1700 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1630 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada); SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[703] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1105 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 6 February 2018, 1725 (Mo Korchinski, Program Coordinator, Unlocking the Gates Peer Health Mentor Program, Collaborating Centre for Prison Health and Education, University of British Columbia, As an individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1630 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies); FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1545 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic); FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1530 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

[704] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1530 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada).

APPENDIX A
LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
Correctional Service of Canada	2017/11/28	80
Kelley Blanchette, Deputy Commissioner for Women		
Anne Kelly, Senior Deputy Commissioner		
Department of Public Safety and Emergency Preparedness		
Angela Connidis, Director General Crime Prevention, Corrections and Criminal Justice Directorate		
Office of the Correctional Investigator of Canada		
Marie-France Kingsley, Acting Executive Director		
Ivan Zinger, Correctional Investigator of Canada		
Parole Board of Canada		
Suzanne Brisebois, Director General Policy and Operations		
Michelle Van De Bogart, Acting Chief Operating Officer		
Department of Justice	2017/12/05	82
Elizabeth Hendy, Director General Programs Branch, Policy Sector		
Office of the Auditor General		
Michael Ferguson, Auditor General of Canada		
Carol McCalla, Principal		
Royal Canadian Mounted Police		
Shirley Cuillierrier, Assistant Commissioner Senior Advisor on Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women and Girls		
Aboriginal Legal Services	2017/12/07	83
Jonathan Rudin, Program Director		
As individuals		
Vicki Chartrand, Associate Professor, Department of Sociology Bishop's University		
Felice Yuen, Associate Professor Concordia University		

Organizations and Individuals	Date	Meeting
Quebec Native Women Inc.	2017/12/07	83
Véronique Picard, Justice Coordinator		
Women of the Métis Nation		
Melanie Omeniho, President		
As an individual	2017/12/12	84
Lois Frank, Instructor, Native American Studies, Criminal Justice University of Lethbridge		
Siksika First Nation		
Stephanie Weasel Child, Senior Manager, Claims and Research		
West Coast Prison Justice Society/Prisoners' Legal Services		
Jennifer Metcalfe, Executive Director		
West Coast Women's Legal Education and Action Fund		
Rajwant Mangat, Director of Litigation		
Correctional Service of Canada	2018/01/30	85
Kelley Blanchette, Deputy Commissioner for Women		
Anne Kelly, Senior Deputy Commissioner		
Department of Indian Affairs and Northern Development		
Margaret Buist, Director General Children and Families Branch, Education and Social Development Programs and Partnerships Sector, Department of Indigenous Services		
Mary-Luisa Kapelus, Director General Strategic Policy, Planning and Information, First Nations and Inuit Health Branch, Department of Indigenous Services		
Lyse Langevin, Director General Community Infrastructure Branch, Regional Operations Sector, Department of Indigenous Services Canada		
Department of Public Safety and Emergency Preparedness		
Angela Connidis, Director General Crime Prevention, Corrections and Criminal Justice Directorate		
MaRS Discovery District		
Adam Jagelewski, Director Center for Impact Investing		

Organizations and Individuals	Date	Meeting
Mowat Centre	2018/01/30	85
Joanne Cave, Senior Policy Associate Not-for-Profit Research Hub		
Lisa Lalande, Executive Lead Not-for-Profit Research Hub		
Parole Board of Canada		
Suzanne Brisebois, Director General Policy and Operations		
Michelle Van De Bogart, Acting Chief Operating Officer		
Saskatoon Downtown Youth Centre Inc.		
Donald Meikle, Executive Director		
As an individual	2018/02/01	86
Denise Peterson, Councillor Town of Strathmore		
Canadian Association of Elizabeth Fry Societies		
Kassandra Churcher, Executive Director		
Savannah Gentile, Director Advocacy and Legal Issues		
Native Women's Association of Canada		
Katharine Curry, Policy Analyst		
Virginia Lomax, Legal Counsel		
As individuals	2018/02/06	87
Chas Coutlee		
Mary Fayant, Elder		
Mo Korchinski, Program Coordinator, Unlocking the Gates Peer Health Mentor Program Collaborating Centre for Prison Health and Education, University of British Columbia		
Odessa Marchand		
Ruth Elwood Martin, Clinical Professor School of Population and Public Health and Collaborating Centre for Prison Health and Education, University of British Columbia		
Jim Pritchard		
Ruth ScalpLock		

Organizations and Individuals	Date	Meeting
Native Counselling Services of Alberta	2018/02/06	87
Claire Carefoot, Director Corrections Program, Buffalo Sage Wellness House		
Office of the Correctional Investigator of Canada		
Marie-France Kingsley, Acting Executive Director		
Ivan Zinger, Correctional Investigator of Canada		
As an individual	2018/02/08	88
Debra Parkes, Professor and Chair in Feminist Legal Studies Peter A. Allard School of Law, University of British Columbia		
Correctional Service of Canada		
Eric Michael, Executive Director, Willow Cree Healing Lodge Prairie Region		
Queen's Prison Law Clinic		
Kathryn Ferreira, Director		
As an individual	2018/02/13	89
Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre Legal Aid Alberta		
Canadian Human Rights Commission		
Fiona Keith, Senior Legal Counsel Human Rights Protection Branch		
Marie-Claude Landry, Chief Commissioner		
Indigenous Bar Association in Canada		
Teresa Edwards, Member of the Board of Directors		
Native Courtworker and Counselling Association of British Columbia		
Darlene Shackelly, Executive Director		
Regroupement des centres d'amitié autochtones du Québec inc.		
Claudie Paul, Services Director		
Jacinthe Poulin, Health and Social Services Advisor		
Union of Safety and Justice Employees		
Audra Andrews		

APPENDIX B
LIST OF BRIEFS

Organizations and Individuals
Canadian Aboriginal AIDS Network
Canadian HIV/AIDS Legal Network
CATIE
Chartrand, Vicki
Martin, Ruth
Mowat Centre
Native Courtworker and Counselling Association of British Columbia
Native Women's Association of Canada
Office of the Correctional Investigator of Canada
Pauktuutit Inuit Women of Canada
Prisoners with HIV/AIDS Support Action Network
Quebec Native Women Inc.
Rouanet, Pierre
West Coast Prison Justice Society/Prisoners' Legal Services

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 80, 82, 83, 84, 85, 86, 87, 88, 89, 97, 99, 100, 101, 105) is tabled.

Respectfully submitted,

Karen Vecchio
Chair

Supplementary Report of the Conservative Party of Canada

Indigenous Women in the Federal Justice and Correctional Systems

In June 2018 the Status of Women Committee completed a study on Indigenous Women in the Federal Justice and Correctional Systems. During this study, the committee heard compelling testimony from 51 witnesses and received 11 written briefs from various organizations and individuals.

Throughout this study, self-determination was one of the key themes brought up by multiple witnesses. Although the Liberal members pay tribute to these witnesses in the body of the main report, the Conservative members of the committee feel that the principle of self-determination deserved more attention. Freedom and personal responsibility are fundamental principles to conservativism. Unlike the Liberals, Conservatives believe in and fight for the fundamental right to liberty and the ability to govern one's self.

While the Conservative members of the Committee are generally in agreement with the findings of the majority report, we believe two items, in particular, deserved greater attention: 1) the positive effect of social impact bonds and 2) the importance of focusing on crime prevention. Based on witness testimony that spoke to the effectiveness of using social impact bonds as a preventative measure, these two items can be considered hand-in-hand.

Throughout the study, the committee heard testimony from a number of witnesses about the effectiveness of social impact bonds, an innovative approach to funding social projects.

The committee heard from witnesses about what a social impact bond is, and how it can be used to implement prevention programs that help Indigenous women break the cycles of violence in which many of them are caught.

Mr. Adam Jagelewski, the director for the Center for Impact Investing at MaRS Discovery District), explained social impact bonds this way:

> "A social impact bond is a new partnership agreement between government and a non-profit organization, and this agreement is based on the covenant that the organization will deliver on an outcome that government seeks to achieve. It's a way in which we can start to shift our thinking towards results, or what I'm calling an outcome, versus the activities or the inputs/outputs of a social intervention.
>
> Because non-profit organizations do not want to take the risk of potentially failing and because they don't want to take the operational risk of delivering that program without that funding, they seek out investors to provide that working capital. The social impact bond is just a unique way to classify this new partnership agreement, whereby private investors put up upfront money to deliver a social program that is intended to generate better outcomes."[1]

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[1] FEWO, Evidence, 1st Session, 42nd Parliament, 30 January 2018, 1700 Mr. Adam Jagelewski (Director, Center for Impact Investing, MaRS Discovery District)

Essentially, a social impact bond is a contract formed between a not-for-profit organization and the government, whereby the not-for-profit organization initially uses money from private investors to deliver a much-needed social service. Once the outcome is proven, the organization is granted money from the government for the outcome achieved. This type of funding model rewards organizations for achieving results. It has been proven that with a results-based approach, better outcomes are achieved.

Mr. Jagelewski said this about social impact bonds:

> "The core principle of a social impact bond is to actually wrap support around individuals and give them the support they need in order to achieve a better life, or to advance them in some way, shape, or form."[2]

Donald Meikle is the executive director of Saskatoon Downtown Youth Centre Inc., the first organization in Canada to complete a social impact bond project. He offered strong testimony as to why it's important to focus on prevention in order to address the issues surrounding indigenous women in the Justice System:

> "Investment in indigenous women creates hope for the future and will go a long way in helping keep women out of our institutions. We need to begin to create prevention programs that start at birth and work hard to keep family units together."[3]

Many witnesses commented on the need to involve communities in the creation of solutions and urged the committee to focus on preventative measures over post-incarceration measures.

When asked whether prevention techniques were best accomplished through big government programs, or by empowering community members and organizations to do the work on the ground, Ms. Marie-Claude Landry (Chief Commissioner, Canadian Human Rights Commission) made the following statement:

> "In my opinion, it's to empower the community, for sure, and to raise awareness and give them the resources and the help they need to be informed and to address the different challenges they have to face. It's certainly one part of addressing the systemic discrimination. We need to address the systemic discrimination that those women face."[4]

Mr. Donald Meikle vividly illustrated the need for prevention when he offered this illustration:

> "It often reminds me of the story of the two people pulling dead bodies from a river. They stood strong, pulling bodies day after day, until an elder happened to walk by and

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[2] FEWO, Evidence, 1st Session, 42nd Parliament, 30 January 2018, 1715 Mr. Adam Jagelewski (Director, Center for Impact Investing, MaRS Discovery District)

[3] FEWO, Evidence, 1st Session, 42nd Parliament, 30 January 2018, 1635 (Mr. Donald Meikle (Executive Director, Saskatoon Downtown Youth Centre Inc.)

[4] FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1650 Ms. Marie-Claude Landry (Chief Commissioner, Canadian Human Rights Commission)

> asked them what they were doing. They explained what they were doing and how hard they were working. The elder looked at them and asked, "Has anyone gone upstream to find out why all these bodies are coming down in the first place?" When we're looking at indigenous women issues, we still continually look downstream."[5]

As Conservatives, we believe that the best way to address the problems in our society is to resolve the underlying causes at the root of the issue and that the government needs to strongly support individuals and organizations who find innovative approaches to doing so. For this reason, we urge the government to use social impact bonds to support local community organizations to deliver services to indigenous women as a direct and effective mode of crime prevention. Based on witness testimony, we further recommend that these programs focus on services that will empower indigenous women to live their lives free from acts that may lead to incarceration.

Our two recommendations are summarized as follows:

1. That the Government of Canada expand the use of social impact bonds to prevent the leading causes of incarceration for indigenous women.
2. That the government of Canada examine the use of social impact bonds to reduce costs and increase outcomes for programs delivered within the federal justice system, with an emphasis on the delivery of mental health services and alternative programs such as healing lodges and community courts.

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[5] FEWO, Evidence, 1st Session, 42nd Parliament, 30 January 2018, 1630 (Mr. Donald Meikle (Executive Director, Saskatoon Downtown Youth Centre Inc.)

NEED FOR FEDERAL LEADERSHIP TO REFORM INDIGENOUS WOMEN'S TREATMENT IN CANADA'S JUSTICE AND CORRECTIONAL SYSTEMS

A Supplementary Report submitted by the
New Democratic Party of Canada to the Government of Canada
June 8, 2018

"Indigenous women end up in the deepest end of the system, and continue to be subject to some of the most restrictive levels of penal practices, such as maximum-security classifications, segregation, involuntary transfers, physical restraints, strip searches, lockdowns, use of force, dry cells, institutional charges, lack of medical attention, and also with higher rates of self-harm and suicide. When you end up in the deep end of the system...you often don't come out alive."[1]

Racism, residential schools, the child welfare system, poverty, sexism, and unequal access to justice have resulted in over-representation of Indigenous women in Canada's prisons.

Indigenous women make up 2% of Canada's population, yet represent 38% of Canada's female prison population. This grotesque imbalance is a condemnation of Canada's justice system and jails.

- "Between 2001-2002 and 2011-2012, the incarcerated Indigenous population has increased by 37.3%, while incarcerated Indigenous women have **increased by 109%**."[2]

Parliament was aware of the overrepresentation of Indigenous prisoners in the early 1990s, yet successive Liberal and Conservative governments have failed to act.

This year, NDP Critic for Women's Equality, Sheila Malcolmson (Nanaimo-Ladysmith) participated in the 62nd session of the UN Commission for Status of Women in New York where panelists reiterated years of calls on the Canadian government to heed international and court direction, and immediately reform treatment of Indigenous women in Canada's justice and corrections systems.

We believe the Committee's final recommendations do not reflect the cycle of injustice, poverty, physical, psychological and sexual violence that Indigenous women disproportionately experience, and the lack of appropriate housing, child care, mental health services, social support that can lead them into the criminal justice system and incarceration.

FAILURE TO FULFIL UNITED NATIONS COMMITMENTS AND THE TRUTH AND RECONCILIATION COMMISSION CALLS TO ACTION

Canada had recommendations from the United Nations Committee to End Discrimination Against Women, in 2016, yet when we asked every witness at committee: "Are your recommendations on Indigenous women in the justice system being addressed by this government?", they all say no. Seventeen of the 94 calls to action in the Truth and Reconciliation Commission are specifically focused on Indigenous peoples' experience in the justice system. Again, witnesses at committee said there really has been no progress.

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[1] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1135 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual).

[2] Dubravka Šimonović, United Nations Special Rapporteur on Violence against women, its causes and consequences, "End of mission statement - Official visit to Canada", 23 April 2018, URL: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22981&LangID=E

HISTORY OF ABUSE

On April 23, 2018, the UN Special Rapporteur on violence against women, in her first official visit to Canada, called out the government for its failure to prevent violence against Indigenous women and girls and lack of action to address their safety and well-being.

> *"Indigenous women face marginalization, exclusion and poverty because of institutional, systemic, multiple, intersecting forms of discrimination that has not been addressed adequately by the State."*[3]

- Indigenous women and girls continue to face crisis levels of violence in Canada
    - Sexual assault experienced by Indigenous women are more than three times those of non-Indigenous women
    - Indigenous women are seven times more likely to be murdered than non-Indigenous women
- The majority of incarcerated women have experienced physical and/or sexual abuse at some point in their lives.
    - In 2010, the Task Force on Federally Sentenced Women found that "85.7% of the women reported a history of physical abuse and 68.2% reported a history of sexual abuse"[4].
    - "women offenders with histories of abuse often display symptoms of psychological distress, have a diagnosis of post-traumatic stress disorder, and that roughly 75% of women with a serious mental illness are also addicted to substances". [5]

Evidence:

- "You have a population that suffers from poverty, domestic violence, mental health issues, and displacement, and because of these issues we end up seeing these people in the justice system. They become incarcerated, they are placed in segregation, they aren't treated for their brain injuries or mental health issues, their families become separated, and they get pushed further into poverty and isolation. To put it bluntly, there is no healing, and there is no focus on prevention that I can see."[6]
- "the basic problem [to end the cycle of violence] is the lack of available resources and funding."[7]
- There is a "need the holistic supports that support all the abuse that has happened, the sexual violence and everything that a woman has lived."[8]

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[3] Dubravka Šimonović, United Nations Special Rapporteur on Violence against women, its causes and consequences, "End of mission statement - Official visit to Canada", 23 April 2018, URL: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22981&LangID=E

[4] Meredith Robeson Barrett, Kim Allenby & Kelly Taylor, "Twenty Years Later: Revisiting the Task Force on Federally Sentenced Women", *Correctional Service Canada*, July 2010, URL: http://www.csc-scc.gc.ca/research/005008-0222-01-eng.shtml#_Toc276046055.

[5] Meredith Robeson Barrett, Kim Allenby & Kelly Taylor, "Twenty Years Later: Revisiting the Task Force on Federally Sentenced Women", *Correctional Service Canada*, July 2010, URL: http://www.csc-scc.gc.ca/research/005008-0222-01-eng.shtml#_Toc276046055.

[6] FEWO, *Evidence*, 1st Session, 42nd Parliament, 13 February 2018, 1605 (Lowell Carroll, Manager of Calgary, Red Deer, and Siksika Legal Services Centre, Legal Aid Alberta, As an individual).

[7] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1130 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.).

The UN Special Rapporteur on Violence Against Women recommended that:

- "The Government should also take concrete steps to eliminate the overrepresentation of Indigenous Peoples in custody over the upcoming decade and to issue detailed annual reports that monitor and evaluate progress in doing so, in particular the manner it implements Call to Action #30 of the Truth and Reconciliation Commission of Canada."[9]

Recommendations:

- **That the Government of Canada take leadership and coordinate federal, provincial, territorial, and municipal government responses to protect women and girls against violence, via a National Action Plan, to ensure equality of access to services across and within jurisdictions in policies, laws, and education, and to prevent and address violence against women and girls, and that the National Action plan be developed working in partnership with Indigenous peoples and communities.**
- **That the Government of Canada, in collaboration with provinces and territories and in partnership with Indigenous peoples and communities, lead national coordination of policing and the justice system to ensure equal access to protection and justice across the country for victims and survivors of violence against women and girls, including access to consistent services, policies and laws across and within jurisdictions.**

PROSTITUTION, HUMAN TRAFFICKING AND THE SEX TRADE

That the Committee did not call witnesses on Indigenous women's involvement in prostitution, human trafficking and the sex trade was an oversight and leaves a hole in the Committee's review. The link between residential schools, intergenerational trauma, the child welfare system, prostitution and incarceration is important to understand, and we recommend further study.

PRESSURE TO PLEAD GUILTY, EVEN WHEN INNOCENT

The Committee's final recommendations did not address why Indigenous women are overcharged and more likely to plead guilty to crimes they did not commit or committed in self-defence.

Evidence:

- "Indigenous people tend to be overcharged and plead guilty at higher rates than non-Indigenous people"[10].
- "Indigenous people are more likely—Indigenous women in particular—to plead guilty to manslaughter or even to second-degree murder to take the lowest possible sentence that they can get with the plea bargain, even when they have very valid, strong

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[8] FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1720 (Teresa Edwards, Member of the Board of Directors Indigenous Bar Association in Canada).

[9] Dubravka Šimonović, United Nations Special Rapporteur on Violence against women, its causes and consequences, "End of mission statement - Official visit to Canada", 23 April 2018, URL: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22981&LangID=E

[10] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1720 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

defences. It goes to lack of trust in the justice system. It goes to concerns about not wanting to put their kids on the stand in cases where it involves a spousal relationship and a homicide in that context. I've heard very many times from women who are incarcerated that they pleaded guilty because they didn't want to have their kids be witnesses in the trial. There are all kinds of reasons why mothers, women, have different pressures on them to plead guilty."[11]

- "Every day innocent people – a disproportionate number of them First Nations, Inuit and Métis people – plead guilty to crimes they did not commit (and sometimes crimes that did not happen). [...]Indigenous people [...] may not understand what is happening to them or what their options are, even when they speak English fluently. [...]It is sadly common for defence lawyers to start their often-too-brief client conversations with the deal available on a plea, before asking the client for their side of the story. These are just a few of the many ways Indigenous people and other vulnerable groups are pressured into pleading when innocent. Governments have long known about the dirty secret of plea bargaining and false guilty pleas."[12]

Here is a powerful testimony describing the vicious cycle some Indigenous women can be trapped in:

- "Their history is that the father was abusive. They lived with a fairly abusive family. The mother drank quite a bit. The mother has cancer now, so they're at risk of losing their mother. Her sister drinks, and her partner was abusive as well. At some point, she had two of her children taken away, which escalated a lot of the drinking. One night, they were out drinking and possibly using drugs, and they got into a fight. What ended up happening.... She had a penknife on her and she—no, her friend was there with her, and the boyfriend got stabbed. She was arrested. She didn't want to talk to a lawyer, because she didn't want to have to think about and relive that night, so there's no chance of her looking at self-defence, provocation, or anything like that. She is going to spend the rest of her life in jail. She will be given a life sentence. It's a very quick trajectory, but this is very common."[13]

WOMEN'S SHELTERS, CHILDCARE AND HOUSING

Evidence:

- Recent domestic violence shelter funding announcements are inadequate for Indigenous women, and don't meet the long-standing need:
    - 70% of Inuit communities do not have access to a safe shelter: approximately 15 shelters now for the 53 Inuit communities across Inuit Nunangat

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[11] FEWO, Evidence, 1st Session, 42nd Parliament, 8 February 2018, 1705 (Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia, As an individual).

[12] Amanda Carling, "Pleading guilty when innocent: A truth for too many Indigenous people", *The Globe and Mail*, May 23, 2018, URL: https://www.theglobeandmail.com/opinion/article-pleading-guilty-when-innocent-a-truth-for-too-many-Indigenous-people/?utm_medium=Referrer:+Social+Network+/+Media&utm_campaign=Shared+Web+Article+Links

[13] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1150 (Vicki Chartrand, Associate Professor, Department of Sociology, Bishop's University, As an Individual).

    - Only a network now of 41 shelters on reserve across Canada for 600 communities, yet new investment will only be for five new shelters over the next five years
- Indigenous women need:
    - “community-based prevention programs, healing circles, and women’s shelters”.[14]
    - “investing in safe and appropriate housing, stable employment, access to child care, mental health supports, access to justice in terms of legal supports, and community support services.”[15]
    - housing, which some communities lack completely.[16]
- “There is a significant lack of structure and no safety net for these women once they are released.”[17]

Recommendations:

- **That the Government of Canada immediately take leadership by creating a national, universal childcare system that provides affordable and quality childcare to all families in Canada, including Indigenous families and women living both on and off reserve.**
- **That the Government of Canada immediately introduce legislation that recognizes housing as a basic human right and, through the National Housing Strategy, invest without delay in affordable housing, shelters and transition houses for Indigenous families and women living both on and off reserve to address the housing crisis.**

FAILURE TO REPEAL MANDATORY MINIMUM SENTENCING

Mandatory minimums still exist in our country. The Liberal government promised to end them. It has not taken that power, and Indigenous women, because judges can no longer exercise their judicial discretion, are being forced to serve time for a crime they may well be an accessory to. It is putting their children into foster care, and this country is carrying on its tragic and destructive history of separating Indigenous parents from their children. New Democrats fail to see why this could not have been done on day one of the government's term in office.

Liberals claim that C-75 is “bold” criminal justice reform. Yet it fails entirely to reverse Harper’s regime of mandatory minimum sentences, despite their political promises and mandate letter commitments. Yet the Liberals have totally failed to address this key issue.

Evidence:

- “mandatory minimum sentences strip away what the sentencing judge is supposed to do and undermine the Criminal Code”[18]

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[14] House of Commons, Standing Committee on the Status of Women [FEWO], Evidence, 1st Session, 42nd Parliament, 6 February 2018, 1700 (Ruth ScalpLock, As an Individual).

[15] FEWO, Evidence, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Raji Mangat, Director of Litigation, West Coast Women’s Legal Education and Action Fund).

[16] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1125 (Véronique Picard, Justice Coordinator, Quebec Native Women Inc.).

[17] Quebec Native Women Inc., “Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),” *Brief submitted to the House of Commons Standing Committee on the Status of Women*. 22 December 2017.

[18] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1145 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

- "mandatory minimum sentence prevents a conditional sentence from being put in. What happens then is that the person goes to jail, and if they don't have someone to look after their kids, they will lose their kids. Even if the person gets their children back, they will have been removed from their families. That experience of being taken from your family and put into foster care is incredibly damaging."[19]

We agree with the Committee's recommendations to immediately table legislation to end mandatory minimums except for the most serious crimes; the NDP's report reinforces why the Liberal government needs to respect their promises.

Jonathan Rudin, Program Director for the Aboriginal Legal Services said:

- "The first thing we urge the committee to recommend and to try at least to do is to have the current government bring in the legislation they have promised to bring in to restore to judges their discretion to sentence people without the burden of mandatory minimum sentences and the restrictions on conditional sentences."[20]

In the absence of federal leadership, this month NDP MP Sheri Benson (Saskatoon West) and Senator Kim Pate both tabled legislation[21] to reverse the Conservatives' harmful mandatory minimum sentencing. This answers Call to Action #32 of the Truth and Reconciliation Commission.

IMMEDIATELY END INDEFINITE SOLITARY CONFINEMENT AND STOP THE GOVERNMENT'S APPEAL OF THE COURT RULING

Evidence:

- Ivan Zinger, the Correctional Investigator of Canada said:
    - "I sincerely believe that in a women's facility, you could de facto abolish [solitary confinement] altogether, if you used those secure units with the same sort of rigour in making it a last resort and using those secure units to separate, and not isolate, the few cases that you need to deal with for a short period of time."[22]
- Dubravka Šimonović, United Nations Special Rapporteur on Violence against Women:
    - "I would like to call for an absolute ban on solitary confinement, segregation, intensive psychiatric care, medical observation and all other related forms of isolation of incarcerated young women and women with mental health issues."[23]

It is shocking that instead of moving forward with reform, the Liberal government appealed the BC Supreme Court ruling against solitary confinement, choosing to spend taxpayers' money fighting the BC Civil Liberties Association in court instead of implementing reforms to help Indigenous women in prison.

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[19] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[19] Parliament of Canada: LegisInfo, *Private Member's Bill: C-407*, 42nd Parliament, 1st Session.

[20] FEWO, Evidence, 1st Session, 42nd Parliament, 7 December 2017, 1200 (Jonathan Rudin, Program Director, Aboriginal Legal Services).

[21] Parliament of Canada: LegisInfo, *Private Member's Bill: C-407*, 42nd Parliament, 1st Session.
Parliament of Canada: LegisInfo, Senate Public Bill : S-251, 42nd Parliament, 1st Session.

[22] FEWO, Evidence, 1st Session, 42nd Parliament, 6 February 2018, 1610 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[23] Dubravka Šimonović, United Nations Special Rapporteur on Violence against women, its causes and consequences, "End of mission statement - Official visit to Canada", 23 April 2018, URL: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22981&LangID=E

Mass incarceration of Indigenous women is shockingly inconsistent with the Canadian government's repeated promises of support for Indigenous people and support for women. They need to correct course and act immediately. It's time for Canada to help Indigenous offenders, women, and those with mental health issues. Canada should lead, not fight the court's rulings against solitary confinement.

Recommendation:

- **That the Government of Canada, through the Attorney General of Canada, immediately stop the appeal it launched against the January 2018 Supreme Court of British Columbia ruling to end indefinite solitary confinement in prisons across Canada, and recognize that the practice is unconstitutional and constitutes cruel and unusual punishment that leads to suffering and death for all prisoners, including Indigenous women in the federal prison system.**

SECTION 81 (PROVISION OF CORRECTIONAL SERVICES BY INDIGENOUS COMMUNITIES) & 84 (RELEASED INTO AN INDIGENOUS COMMUNITY)

We believe the Committee's final recommendations don't reflect the imperative for Correctional Service Canada (CSC) to immediately fulfill the intent of the legislation of the *Corrections and Conditional Release Act.*

Evidence:

- "healing lodges (section 81) are only available to female inmates who have received a minimum-security classification, which is a small number of Indigenous women"[24]
- "section 81 and section 84 releases are chronically … underutilized in federal corrections."[25]
- there is a lack of awareness or understanding among Indigenous communities of these legislative provisions, despite the fact that the legislation was introduced over 25 years ago.[26]
- Honourable Kim Pate, Senator said:
  - "I would encourage you to look at the legislation and what the legislators intended and recognize that part of the reason we haven't seen full implementation of those provisions, in my view, is that over the last couple of decades—it's 25 years since the legislation was introduced—very few [I]ndigenous communities have even known about those provisions, and if they did, they were told that they had to build institutions in order to implement them."[27]

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[24] Quebec Native Women Inc, "Recommendations submitted to the Standing Committee on the Status of Women by Quebec Native Women Inc. (QNW),"*Brief submitted to the House of Commons Standing Committee on the Status of Women*, 22 December 2017; FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services

[25] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1535 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[26] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

[27] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0915 (Hon. Kim Pate, Senator).

- "$220,000 spent annually could be given to Indigenous communities so that they can establish and manage healing lodges. These communities could use this money to help their members."[28]

GOVERNMENT WORKING IN SILOS

The Committee's report failed to acknowledge that Indigenous Affairs and Correctional Services Canada are not collaborating with one another. The NDP is disappointed that both the Minister of Crown-Indigenous Relations and Northern Affairs and Minister of Indigenous Services are failing in their mandate to "lead a whole-of-government approach" and "improve delivery that are holistic, community-based, and put the needs of the person first"

Evidence:

- "It's going to require the people in this room, and your colleagues and counterparts in the House and the Senate, to work across ministries and across jurisdictions and, most importantly, to work with Indigenous women themselves."[29]
- "Second, provide support and assistance wherever Indigenous women are. Services must find them: in their community or urban centre, at the police station, before a judge, in a remand centre, in a federal institution, and on release."[30]

Recommendation:

- That the Minister of Crown-Indigenous Relations and Northern Affairs and Minister of Indigenous Services immediately address the gaps in "delivery of government services on a day-to-day basis" for Indigenous women in the federal prison system, "identify ways to improve delivery that are holistic, community-based, and put the needs of the person first" as called for in the Ministers' mandate letter and commit to improve its collaboration with Correctional Services Canada.

MAKE CORRECTIONAL SERVICES CANADA TRULY WOMEN-CENTERED

The Committee's final recommendations don't reflect that witnesses[31] said correctional programs provided by Correctional Services Canada are not geared toward Indigenous women.

Even though CSC said that they had a "holistic, culturally responsive, women-centred program model", this statement was refuted by a great number of witnesses.

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[28] FEWO, Evidence, 1st Session, 42nd Parliament, 6 February 2018, 1555 (Ivan Zinger, Correctional Investigator of Canada, Office of the Correctional Investigator of Canada).

[29] FEWO, Evidence, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Raji Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund).

[30] FEWO, Evidence, 1st Session, 42nd Parliament, 13 February 2018, 1655 (Marie-Claude Landry, Chief Commissioner, Canadian Human Rights Commission).

[31] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1245 (Melanie Omeniho, President, Women of the Métis Nation); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1245 (Felice Yuen, Associate Professor, Concordia University, As an Individual); FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1245 (Jonathan Rudin, Program Director, Aboriginal Legal Services), FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1205 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General), FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services), FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1155 (Rajwant Mangat, Director of Litigation, West Coast Women's Legal Education and Action Fund), FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1620 (Virginia Lomax, Legal Counsel, Native Women's Association of Canada), FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

Evidence:

- "A number of places where [CSC] haven't yet succeeded in" providing culturally appropriate services to Indigenous female offenders.[32]
- "there's been a real decline in the women-centric approach from the beginning of [the Fraser Valley Institution for Women] and the other women's prisons"[33]
- "[o]ver time, you see CSC's great resistance to any recommendations, dating back to the 1996 Arbour report[34]
- "having Correctional Service less involved and the aboriginal community more involved is something that must be explored, because it's not working the way things currently are, and there's been time to make it work."[35]
- "Really what it requires is a major paradigm shift, one which Correctional Services Canada has frequently and demonstrably resisted."[36]
- "CSC did not implement recommendations that could have led to a massive change in our ability to treat mental health in the community"[37]

GLADUE REPORT REFORM

We agree with the Committee's recommendations on Gladue reports, but we think that the federal government needs to immediately lead national coordination to effectively monitor the implementation of a gender specific plan for Gladue reporting.

Evidence:

- "most of the time defence attorneys are not advising Métis women on what the purpose of a Gladue report is and how it will benefit them"[38]
- "If somebody is not visibly an Indigenous person, they will try to get away without doing any Gladue reports or engaging them in that process at all."[39]
- "Despite the legal requirement that the Gladue factors or aboriginal social history be considered by sentencing courts, CSC, and the Parole Board, Indigenous people and especially Indigenous women are imprisoned more at higher rates of security and for longer portions of their sentences than other Canadians."[40]

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[32] FEWO, *Evidence*, 1st Session, 42nd Parliament, 5 December 2017, 1205 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General).

[33] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1100 and 1130 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[34] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[35] FEWO, *Evidence*, 1st Session, 42nd Parliament, 8 February 2018, 1555 (Kathryn Ferreira, Executive Director, Queen's Prison Law Clinic).

[36] SECU, *Evidence*, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[37] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1615 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).

[38] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Melanie Omeniho, President, Women of the Métis Nation).

[39] FEWO, *Evidence*, 1st Session, 42nd Parliament, 7 December 2017, 1240 (Melanie Omeniho, President, Women of the Métis Nation).

[40] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

- "in our clients' experience, not very many of them have Gladue reports from when they were sentenced"[41]
- There are not enough Gladue writers, or Gladue writers that are properly trained, so women do not feel comfortable sharing their personal experiences, and that leads to incomplete sentencing[42]
- Native Women's Association of Canada recommended a gender-specific plan for Gladue reporting (May 2015).

Recommendation:

- **That the Government of Canada, in partnership with Indigenous peoples and communities, lead national coordination to effectively monitor the implementation of a gender specific plan for Gladue reporting.**

Conclusion

"There is absolutely no question in my mind that Indigenous people have the answers to the problems that are assailing them in society. We absolutely need to put the power into their hands."[43]

"[O]ur efforts as a country must be focused on getting Indigenous women prisoners out of prisons."[44]

It's time for Canada to help Indigenous offenders, women, and those with mental health issues. Canada should lead, not fight the court's rulings against solitary confinement, and this government should lead in the reform of treatment of Indigenous women in Canada's justice and corrections systems.

Respectfully submitted on behalf of the New Democratic Party, June 8, 2018

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[41] FEWO, *Evidence*, 1st Session, 42nd Parliament, 12 December 2017, 1105 (Jennifer Metcalfe, Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services).

[42] FEWO, *Evidence*, 1st Session, 42nd Parliament, 1 February 2018, 1610 (Kassandra Churcher, Executive Director, Canadian Association of Elizabeth Fry Societies).

[43] FEWO, Evidence, 1st Session, 42nd Parliament, 1 February 2018, 1625 (Denise Peterson, Councillor, Town of Strathmore, As an Individual).

[44] House of Commons, Standing Committee on Public Safety and National Security [SECU], Evidence, 1st Session, 42nd Parliament, 23 November 2017, 0845 (Savannah Gentile, Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies).